

The Gazette of India



PUBLISHED BY AUTHORITY

No. 9] NEW DELHI, SATURDAY, FEBRUARY 28, 1959/PHALGUNA 9, 1880

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 16th February 1959:—

Issue No.	No. and date	Issued by	Subject
27.	S.O. 386, dated 14th February, 1959.	Ministry of Law	Declaration containing the name of the Candidate elected by the Parliamentary Constituency No. 138, Nagpur, to fill the Vacancy in the House of the People.
28.	S.O. 387, dated 16th February, 1959.	Election Commission, India.	Calling upon the elected members of the Legislative Assembly of the State of Bombay to elect a person in the Council of States.
	S.O. 388, dated 16th February, 1959.	Do.	Appointment of dates for nomination, scrutiny etc., for election in pursuance of its notification No. S.O. 387 (above.)
	S.O. 389, dated 16th February, 1959.	Do.	Designates the Secretary, Bombay Legislature Department to be the Returning Officer for election in pursuance of its Notification No. S.O. 387 (above.)
	S.O. 390, dated 16th February, 1959.	Do.	Appointing Shri H.B. Shukla, Deputy Secretary, Bombay Legislature Department to assist the Returning Officer for election in pursuance of Notification No. S.O. 387 (above.)
	S.O. 391, dated 16th February, 1959.	Do.	Fixation of hours for election in pursuance of Notification No. S.O. 387 (above.)

Issue No.	No. and date	Issued by	Subject
29.	S.O. 392, dated 16th February, 1959.	Ministry of Food and Agriculture.	Authorising Shri D.D. Sathe, Secretary to the Government of Bombay, Agriculture and Forests Department, to determine the average market rates of wheat, jowar, bajra and maize in any locality in Bombay State.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 19th February 1959

S.O. 440.—Whereas the election of Shri Achint Ram as a member of the House of the People from the Patiala constituency, has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951, (43 of 1951), by Dr. Dewan Singh, 20, West Patel Nagar, New Delhi;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition, has, in pursuance of the provisions contained in section 111 of the said Act, sent a report of the final withdrawal of the said election petition to the Commission;

Now, therefore, in pursuance of the provisions of section 111 of the said Act, the Election Commission hereby publishes the said report of the Tribunal.

**IN THE COURT OF SHRI GURDEV SINGH, DISTRICT AND SESSIONS JUDGE,
AND MEMBER ELECTION TRIBUNAL, LUDHIANA.**

ELECTION PETITION No. 429 OF 1957

Dr. Dewan Singh v. Shri Achint Ram.

22nd January 1959.

PRESENT:

Shri B. S. Bindra, Advocate—for the petitioner.

Nemo—for the respondent.

The petitioner Dr. Dewan Singh applied on 14th November 1958 for permission to withdraw the petition. After the service of the notice of this application on the respondent and its publication in the official gazette the permission to withdraw the petition was granted by an order of this Tribunal dated the 30th December, 1958. A notice of the withdrawal has been duly published in the Government of India Gazette dated the 6th January, 1959, under clause (b) of Section 110(3) of the Representation of the People Act. Though the period of 14 days allowed under the law for an application to be substituted as petitioner in place of the party withdrawing the petition has elapsed, no one has come forward

to be substituted as petitioner in place of Dr. Dewan Singh. The report is accordingly submitted to the Election Commission under section 111 of the Representation of the People Act for publication in the official gazette.

The 22nd January, 1959.

(Sd.) GURDEV SINGH
Member,
Election Tribunal, Ludhiana.
[No. 82/429/57/3160.]

New Delhi, the 21st February 1959

S.O. 441.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 2 of 1959, presented to the Commission on the 30th January, 1959, under section 81 of the said Act, by Shri Vinaya Kumar Diwan, son of Shri Nand Kishore Diwan, resident of Maragaon, Tehsil Hoshangabad, District Hoshangabad, Madhya Pradesh, calling in question the election to the House of the People from the Hoshangabad constituency of Shri Raghunathsingh Kiledar, son of Shri Benisingh Kiledar, Cultivator, resident of Bhugwara, Tehsil and District Narsinghpur, Madhya Pradesh.

TRUE COPY

Presented to me by Shri Vinaya Kumar Diwan whose signature has been obtained in the margin and attested as having been signed before me this the 30th (thirtieth) day of January One Thousand Nine Hundred and Fifty-Nine.

(Sd.) S. C. Roy,
Secretary, Election Commission, India.

(Sd.) VINAYA KUMAR DIWAN.

Attested.

(Sd.) S. C. Roy,

Secretary, Election Commission, India.

BEFORE THE ELECTION COMMISSIONER, INDIA, NEW DELHI

ELECTION PETITION No. 2 OF 1959

Re: Bye-Election to the House of the People (Lok Sabha) from Hoshangabad Parliamentary Constituency, State of Madhya Pradesh.

Election Petition under Section 81 of the Representation of the People Act.

Vinaya Kumar Diwan, S/o Nand Kishore Diwan, aged about 33, resident of Maragaon, Tah. Hoshangabad, Distt. Hoshangabad, M.P.—*Petitioner.*

Versus

Shri Raghunathsingh Kiledar, son of Shri Benisingh Kiledar, aged 58, Cultivator, resident of Bhugwara, Tehsil and Distt. Narsinghpur, M.P.—*Respondent.*

The Petitioner abovenamed Most Respectfully Showeth:—

1. That your petitioner is an elector enrolled as No. 178 in the electoral roll of Mouza Maragaon in Sohagpur Assembly Constituency comprised in Hoshangabad Parliamentary Constituency. He is therefore entitled to make this petition.

2. That polling in the bye-election for a seat in the House of People from the Hoshangabad Parliamentary Constituency took place on the 13th and 14th December 1958. Counting of votes took place on the 15th and 16th, and the following contesting candidates were declared to have received valid votes as shown hereunder:—

Name of Candidate	No. of Votes Polled.
1. Shri Raghunathsingh Kiledar.	45,321
2. Shri Hari Vishnu Kamath.	40,318
3. Shri Nandlal Sharma.	21,988
Invalid votes.	6,967

The respondent, Shri Raghunathsingh Kiledar, having obtained the largest number of valid votes, was declared elected on the 16th December 1958 by the Returning Officer, Shri Deshrathlal Dubey, Collector, Hoshangabad.

3. The respondent was the official candidate on behalf of the Congress Party. Shri Hari Vishnu Kamath was the official candidate on behalf of the Praja Socialist Party, and Shri Nandlal Sharma was an Independent candidate.

4. That nomination papers in the said bye-election had been filed by respondent, Shri Raghunathsingh Kiledar, Shri Harivishnu Kamath, Shri Nandlal Sharma and one Shri Premchand Jain son of Shri Naraindas Jain of Jabalpur between the 18th and 28th October 1958. The nomination papers of respondent Shri Raghunath Singh Kiledar, Shri Harivishnu Kamath and Shri Nandlal Sharma were accepted, while all the three nomination papers filed by Shri Premchand Jain were rejected by the Returning Officer on the day of scrutiny viz. the 31st October, 1958.

5. Petitioner states that the election of the respondent is void and should be declared void under section 100 of the Representation of the People Act, 1951 (hereinafter referred to as the Act) on the following grounds:—

I. (a) The aforementioned Shri Premchand Jain, son of Shri Naraindas Jain, resident of 675, Lordganj, Jabalpur whose electoral roll No. is 3131, in Lordganj Ward No. 14, Jabalpur City in Jabalpur City No. 1. M.P. Legislative Assembly Constituency comprised in Jabalpur Parliamentary constituency had submitted three nomination papers on 28th October, 1958. He had also made the Security deposit as required by Section 34 of the Act. The said nomination papers were also accompanied by a certificate from the Election Officer, Jabalpur, certifying that Shri Premchand Jain was a voter from Lordganj Ward and that his name appeared in the Voters list bearing Serial No. 3131;

(b) The scrutiny of nominations took place on the 31st October 1958 and all the three nomination papers of Shri Prem Chand Jain were rejected by the Returning Officer on the ground that:—

That Shri Premchand Jain had not filed either a copy of the Electoral Roll of the Constituency in which he is an elector, nor a certified copy of the relevant entries in such roll, as required by Section 33(5) of the Act. Thus Shri Premchand Jain was not allowed to contest the election on account of rejection of his nomination papers.

(c) There was no objection at the time of Scrutiny that Shri Premchand Jain is not an elector in a Parliamentary Constituency, but the only objection was that the document produced by him was not a certified copy of the relevant entry in the Electoral Roll.

(d) The rejection of the said nomination papers was illegal and improper for the following reasons:—

(i) that the nomination papers of Shri Premchand Jain were accompanied by a certificate from the Election Officer of Jabalpur, and were therefore perfectly good and valid nomination papers.

(ii) The Returning Officer should have held that as Shri Premchand Jain had filed a certificate from the Election Officer, Jabalpur, establishing the entry of his name in the electoral roll of Lordganj Ward, in Jabalpur Parliamentary Constituency, the same should have been accepted as conclusive proof of the fact that Shri Premchand Jain is an elector for Jabalpur Parliamentary Constituency and thus entitled under Section 4(d) of the Act to contest the bye-election from Hoshangabad Parliamentary Constituency.

(iii) As the Provisions of Section 33(5) are intended to provide evidence of the fact of a person being an elector for any Parliamentary Constituency, Shri Premchand Jain had complied with that particular provision of the Act.

(iv) In any case, it should have been held that the certificate issued by the Election Officer for Collector Jabalpur who is the Electoral Registration Officer of Jabalpur District was equivalent to a certified copy of the entry relating to Shri Premchand Jain in the electoral roll of Jabalpur Parliamentary Constituency.

- (v) The Returning Officer should have further found that the certificate of the Election Officer, Jabalpur was cogent and conclusive evidence regarding the qualification of Shri Premchand Jain to contest the bye-election, and as the omission to file a certified copy of the electoral roll was not a defect, or in any event was not a defect of any substantial character, the nomination paper of Shri Premchand Jain should not have been rejected.
 - (vi) That under proviso to section 36(5) of the Act Shri Premchand Jain should have been allowed time to rebut the objection, and the Returning Officer should have postponed his decision to a date not later than the next day but one following the date fixed for scrutiny.
 - (vii) That in the alternative the Returning Officer himself should have sent for a copy of the relevant electoral-roll in order to satisfy himself that Shri Premchand Jain was an elector of Jabalpur Parliamentary Constituency.
 - (viii) The three nomination papers of Shri Premchand Jain were thus improperly rejected and the said rejection makes the election of the returned candidate void under section 100(i)(c) of the Act.
5. II(a) That the polling and counting of votes in the bye-election were in gross violation of the Representation of People (Conduct of Election and Election Petition) Rules 1956. The marking system of voting was in total contravention of the aforesaid rules, particularly rules 21 and 28. The result of the election has been materially affected. The margin of Victory was only 5,003 votes while the number of invalid votes was 6,967.
- (b) The Election Commission in contravention of Rules 21 and 28 and without the sanction of Parliament as required by section 169 of the Act, introduced the following procedure for the casting of votes:—
- (i) Ballot papers bearing names and symbols of all candidates were introduced, and the elector desiring to cast his vote in favour of the particular candidate was asked to stamp with a rubber seal the name, party or symbol of that candidate.
 - (ii) That the marked ballot paper was to be inserted in a common ballot box. Thus the provision of keeping a separate ballot box for each candidate was done away with.
 - (iii) The said change in the procedure created great confusion inasmuch as 6,967 votes were wasted. This materially affected the result of the election. It has also resulted in depriving 6,967 electors of a proper opportunity of casting their votes.
 - (iv) The amended rules are not valid, inasmuch as the Central Government could not, while acting under its rule making powers conferred by section 169 of the R.P. Act, being itself a delegate, further sub-delegate the functions contained in the said amended rules to the Election Commission.
 - (v) The said changes being illegal and ultravires has vitiated the entire election and made it illegal and void. It has also materially affected the result thereof and great prejudice was caused to the detriment of the defeated candidates.

6. The petitioner has deposited a sum of Rs. 1,000 in Reserve Bank of India, New Delhi as Security for costs of this Petition in favour of the Secretary, Election Commission, India, and a 'Treasury Challan' No. 45804, dated 28th January 1959 indicating the same is attached herewith.

7. The petitioner files the following documents *inter alia* as per list attached with this Petition:

It is, therefore, prayed that the Election of the Respondent be declared void;

and

The Petitioner be awarded costs.

(Sd.) VINAYA KUMAR DIWAN,
Petitioner.

NEW DELHI;
The 30th January, 1959.

Verification :

I, Vinaya Kumar Diwan, do hereby verify and state that the contents of paras 1, 2, 3, 4 and 6 are true to my personal knowledge, and contents of para 5 are true to my information received from others and believed to be true and para 7 is based on records and documents and believed by me to be true.

(Sd.) VINAYA KUMAR DIWAN,

Petitioner.

NEW DELHI;

The 30th January, 1959.

List of Annexures.

S. No.	Annexure mark	Description	Para No.
1	A	Certified copy of nomination paper No. A-9 dated 28-10-58 of Sri Premchand Jain	4 & 5 I(a)
2	B	Certified copy of Nomination paper No. A-10 dated 28-10-58 of Sri Premchand Jain	Do.
3	C	Certified copy of Nomination paper No. A-11 dated 28-10-58 of Sri Premchand Jain	Do.
4	D	Certified copy of a certificate dated 20th Sept. 1958 issued by Sri R. L. Srivastava Election Officer, Jabalpur	5 I (a)
5	E	Certified copy of order of Returning Officer, Hoshangabad Sri D. L. Dubey dated 31-10-58 rejecting all three nomination papers of Sri Premchand Jain	4 & 5 I (b)

(Sd.) VINAYA KUMAR DIWAN,

Petitioner.

New Delhi, the 30th January 1959.

Verification.

I, Vinaya Kumar Diwan do hereby verify that the Annexures A, B, C, D, & E are true to my information received by me and based on records and documents and believed by me to be true.

(Sd. VINAYA KUMAR DIWAN,)

Petitioner.

NEW DELHI;

The 30th January 1959.

COPY OF NOMINATION PAPER FILED IN THE OFFICE OF RETURNING OFFICER, HOSHANGABAD, FILED BY PREM CHAND JAIN

REPRESENTATION OF THE PEOPLE (CONDUCT OF ELECTION AND ELECTION PETITIONS) RULES, 1956.

FORM 2A

फार्म २क

NOMINATION PAPER

नाम निर्देश पत्र

Election to the House of the People

लोक-सभा के लिये निर्वाचन

(To be filled by the proposer)

(प्रस्तावक द्वारा भरा जाय)

I, hereby nominate प्रेम चन्द जैन as a candidate for

मैं इस के द्वारा

election from the

होशंगाबाद

Parliamentary Constituency

संसदीय निर्वाचन क्षेत्र से निर्वाचन के लिये एक उम्मेदवार के रूप में नाम निर्देश करता हूँ।

1. Full name of proposer मदन लाल जैन
१. प्रस्तावक का पूरा नाम
2. *Electoral roll number of proposer
२. निर्वाचक नामावली में प्रस्तावक का क्रमांक २६० शनीचरा वार्ड नं० २ होशंगाबाद (शहर)
3. Name of candidate's **father/husband
३. उम्मेदवार के पिता पति का नाम नारायण दास
4. Full postal address of candidate
४. उम्मेदवार का डाक का पूरा पता ६७५ लाड गंज जबलपुर
5. *Electoral roll number of candidate
५. निर्वाचक नामावली में उम्मेदवार का क्रमांक नं० ३१३१ लाड गंज वार्ड नं० १४ जबलपुर शहर

मदन लाल जैन

Signature of proposer.

Date:

तारीख : २८-१०-५८

प्रस्तावक के हस्ताक्षर

(To be filled by the candidate)

(उम्मेदवार द्वारा भरा जाय)

I, the above-mentioned candidate, assent to this nomination and hereby declare:—

मैं, ऊपर-लिखित उम्मेदवार इस के द्वारा, नाम निर्देश के लिये स्वीकृति देता हूँ और घोषित करता हूँ :—

(a) that I have completed 31 years of age;

(क) कि मैं ३१ साल की आयु का हो चुका हूँ,

(b) that the symbols I have chosen are in order of preference

(ख) मेरे द्वारा चुने गये चिह्नों का अधिमान क्रम

(i) Two Bullocks with yoke on

(१)

(ii) Tree

(२)

और

(iii) A cultivator winnowing grain

(३)

है

Date:

तारीख : २८-१०-५८

प्रेम चन्द जैन

Signature of candidate.

उम्मेदवार के हस्ताक्षर

Here insert:—

यहाँ भरा जाय

(i) the name of the Parliamentary constituency;

(१) संसदीय निर्वाचन क्षेत्र का नाम—होशंगाबाद संसदीय निर्वाचन क्षेत्र

(ii) the name of the component assembly constituency in the electoral rolls of which the name of the proposer or the candidate, as the case may be, has been entered;

(२) निर्वाचक नामावलि में संघटक सभा निर्वाचन क्षेत्र का नाम जिस में प्रस्तावक का

अथवा उम्मेदवार का नाम प्रसंगानुसार लिख लिया गया है; जबलपुर शहर नं० १

(विधान सभा क्षेत्र)

(iii) the serial number of the part of the electoral roll in which such entry occurs; and

(३) निर्वाचक नामावलि के भाग का क्रमांक जिस में ऐसी प्रविष्टि है, नं० १४ (लाई और गंज वार्ड)

(iv) the serial number of the entry in that part

(४) उस भाग की प्रविष्टि का क्रमांक—नं० ३१३१

Illustration:—

उदाहरण :—

Lucknow Parliamentary Constituency

लखनऊ संसदीय निर्वाचन-क्षेत्र

Lucknow City East Assembly Constituency

लखनऊ नगर पूर्व विधान सभा निर्वाचन क्षेत्र

Part 7;

भाग ७

No. 358

क्रमांक ३५८

** Strike off one of the alternatives as necessary.

**आवश्यकतानुसार काट दिया जाय।

(To be filled by the Returning Officer)

(निर्वाचन अधिकारी द्वारा भरा जाय)

Serial No. of nomination paper: A9

नाम-निर्देश पत्र क्रमांक :

This nomination was delivered to me at my office at 12-32 P.M. (hour) on
यह नाम निर्देश मेरे कार्यालय में (बजे)

28th October, 1958 (date) by the **candidate/

(तारीख) को **उम्मेदवार/ प्रस्तावक द्वारा मुझे सौंपा गया ।

D. L. DUBE,

Date: 28-10-58.

Returning Officer.

तारीख :

निर्वाचन अधिकारी

Decision of Returning Officer accepting or rejecting the nomination Paper.

निर्वाचन अधिकारी द्वारा नाम-निर्देश पत्र को स्वीकार करने या अस्वीकार करने का निर्णय ।

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951, and decide as follows:—

लोक प्रतिनिधित्व अधिनियम, १९५१ की धारा ३६ के अनुसार मैंने नाम-निर्देश पत्र की जांच कर ली है और निम्नानुसार निर्णय करता हूँ :—

Date:

Returning Officer.

तारीख :

निर्वाचन अधिकारी

COPY OF NOMINATION PAPER FILED IN THE OFFICE OF RETURNING OFFICER, HOSHANGABAD, FILED BY HAZARI LAL.

Representation of the People (Conduct of Election and Election Petitions) Rules, 1956.

FORM 2A

फार्म २क

NOMINATION PAPER

नाम निर्देश पत्र

Election to the House of the People

लोक सभा के लिये निर्वाचन

(To be filled by the proposer)

(प्रस्तावक द्वारा भरा जाय)

I, hereby nominate

प्रेम चन्द जैन

as a candidate for

मैं, इस के द्वारा

election from the

होशंगाबाद

Parliamentary Constituency.

संसदीय निर्वाचन क्षेत्र से निर्वाचन के लिये एक

उम्मेदवार के रूप में नाम निर्देश करता हूँ ।

1. Full name of proposer:

१. प्रस्तावक का पूरा नाम :

हजारी लाल

2. *Electoral roll number of proposer:

२. निर्वाचक नामावली में प्रस्तावक का क्रमांक :

१५० शनीचरा वार्ड नं० २, होशंगाबाद ।

3. Name of candidate's **father/husband:

३. उम्मेदवार के **पिता/पति का नाम नारामण दास

4. Full postal address of candidate:

४. उम्मेदवार का डाक का पूरा पता : ६७५ लाई गंज, जबलपुर

5. *Electoral roll number of candidate:

५. *निर्वाचक नामावली में उम्मेदवार का क्रमांक : नं० ३१३१ लाई गंज वार्ड नं० १४, जबलपुर

शहर

हजारी लाल

Date:

Signature of proposer.

तारीख : २८-१०-५८

प्रस्तावक के हस्ताक्षर

(To be filled by the candidate).

(उम्मेदवार द्वारा भरा जाय)

I, the above-mentioned candidate, assent to this nomination and hereby declare:—

मैं, उपर-लिखित उम्मेदवार, इस के द्वारा, नाम निर्देश के लिये स्वीकृति देता हूँ और घोषित करता हूँ :-

(a) that I have completed years of age;

(क) कि मैं ३१ साल की आयु का हो चुका ;

(b) that the symbols I have chosen are in order of preference:

(ख) मेरे द्वारा चुने गये चिह्नों का अधिमान क्रम:

(1) Two Bullocks with yoke on

(१)

(ii) A cultivator winnowing grain

(२) और

(iii) x x

(३) है

Date:

तारीख : २८-१०-५८

प्रेम चन्द जैन

Signature of candidate.

उम्मेदवार के हस्ताक्षर

Here insert:—

यहाँ भरा जाय:—

(i) the name of the Parliamentary constituency:

(१) संसदीय निर्वाचन क्षेत्र का नाम : होशंगाबाद संसदीय निर्वाचन क्षेत्र

(ii) the name of the component assembly constituency in the electoral rolls of which the name of the proposer or the candidate, as the case may be, has been entered;

(२) निर्वाचक नामावली में संघटक सभा निर्वाचन क्षेत्र का नाम जिसमें प्रस्तावक का अथवा उम्मेदवार का नाम प्रसंगानुसार लिख लिया गया है : जबलपुर शहर विधान सभा निर्वाचन क्षेत्र नं० १

(iii) the serial number of the part of the electoral roll in which such entry occurs; and

(३) निर्वाचक नामावली के भाग का क्रमांक जिसमें ऐसी प्रविष्टि है : भाग १४ (लार्डगंज वार्ड) और

(iv) the serial number of the entry in that part:

(४) उस भाग की प्रतिविष्टि का क्रमांक नं० : ३१३१

Illustration:—

उदाहरण :—

Lucknow Parliamentary Constituency

लखनऊ संसदीय निर्वाचन-क्षेत्र

Lucknow City East Assembly Constituency

लखनऊ नगर पूर्व विधान सभा निर्वाचन-क्षेत्र

Part 7;

भाग ७ :

No. 358

क्रमांक : ३५८

** Strike off one of the alternatives as necessary.

**आवश्यकतानुसार काट दिया जाय ।

(To be filled by the Returning Officer)

(निर्वाचन अधिकारी द्वारा भरा जाय)

Serial No. of nomination paper: A10.

नाम-निर्देश पत्र क्रमांक :

This nomination was delivered to me at my office at 12-32 P.M. (hour) on

यह नाम निर्देश मेरे कार्यालय में (बजे)

28th October, 1958 (date) by the **candidate.

(तारीख) को **उम्मेदवार-प्रस्तावक द्वारा मुझे सौंपा गया ।

Date: 28-10-58.

D. L. DUBE,

Returning Officer.

तारीख :

निर्वाचन अधिकारी

Decision of Returning Officer accepting or rejecting the nomination Paper.

निर्वाचन अधिकारी द्वारा नाम-निर्देश पत्र को स्वीकार करने या अस्वीकार करने का निर्णय ।

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951, and decide as follows:—

लोक प्रतिनिधित्व अधिनियम, १९५१ की धारा ३६ के अनुसार मैंने नाम-निर्देश पत्र की जांच कर ली है और निम्नानुसार निर्णय करता हूँ :—

Date:

Returning Officer.

तारीख :

निर्वाचन अधिकारी

COPY OF NOMINATION PAPER FILED IN THE OFFICE OF RETURNING OFFICER, HOSHANGABAD, FILED BY BANSI LAL.

Representation of the People (Conduct of Election and Election Petitions) Rules, 1956.

FORM 2A

फार्म २क

NOMINATION PAPER

नाम निर्देश पत्र

Election to the House of the People

लोक सभा के लिये निर्वाचन

(To be filled by the proposer)

(प्रस्तावक द्वारा भरा जाय)

I, hereby nominate

प्रेम चन्द जैन आजाद

as a candidate for

मैं इसके द्वारा

election from the

होशंगाबाद

Parliamentary Constituency.

संसदीय निर्वाचन क्षेत्र से निर्वाचन के लिये एक

उम्मेदवार के रूप में नाम निर्देश करता हूँ

1. Full name of proposer:

१. प्रस्तावक का पूरा नाम : बन्सीलाल

2. *Electoral roll number of proposer:

२. निर्वाचक नामावली में प्रस्तावक का क्रमांक: नं. १४० सुभाषगंज वार्ड नं० १८ इटारसी
(शहर)

3. Name of candidate's **father/husband:

३. उम्मेदवार के पिता का नाम: नारायणदास

4. Full postal address of candidate:

४. उम्मेदवार का डाक का पूरा पता: ६७५, जवाहर गंज, जबलपुर

5. *Electoral roll number of candidate:

५. निर्वाचक नामावली में उम्मेदवार का क्रमांक: नं० ३१३१ लार्डगंज वार्ड नं० १४, जबलपुर।

बन्सीलाल

Date:

Signature of proposer.

तारीख: २८-१०-५८

प्रस्तावक के हस्ताक्षर

(To be filled by the candidate)

(उम्मेदवार द्वारा भरा जाय)

I, the above-mentioned candidate, assent to this nomination and hereby declare:—

मैं, उपर-लिखित उम्मेदवार इसके द्वारा, नाम निर्देश के लिये स्वीकृति देता हूँ और घोषित करता हूँ:—

(a) that I have completed _____ years of age;

(क) कि मैं ३१ साल की आयु का हो चुका हूँ;

(b) that the symbols I have chosen are in order of preference

(ख) मेरे द्वारा चुने गये चिन्हों का अधिमान क्रम :

(i) Two Bullocks with yoke on

(१)

(ii) A cultivator winnowing grain

(२)

(iii) Tree

(३)

और

है।

प्रेमचन्द जैन आजाद

Signature of candidate.

Date:

तारीख: २८-१०-५८

उम्मेदवार के हस्ताक्षर

Here insert:—

यहाँ भरा जाय:—

(i) the name of the Parliamentary constituency

(१) संसदीय निर्वाचन क्षेत्र का नाम: होशंगाबाद संसदीय निर्वाचन क्षेत्र।

(ii) the name of the component assembly constituency in the electoral rolls of which the name of the proposer or the candidate, as the case may be, has been entered;

(२) निर्वाचक नामावली में संघटक सभा निर्वाचन क्षेत्र का नाम जिसमें प्रस्तावक का अथवा

उम्मेदवार का नाम प्रसंगानुसार लिख लिया गया है: जबलपुर शहर नं० १ विधान सभाक्षेत्र

(iii) the serial number of the part of the electoral roll in which such entry occurs; and

(३) निर्वाचक नामावली के भाग का क्रमांक जिसमें ऐसी प्रविष्टि है: १४ (लार्डगंज)

और

(iv) the serial number of the entry in that part:

(४) उस भाग की प्रतिविष्टि का क्रमांक: ३१३१

Illustration:—

उदाहरण :—

Lucknow Parliamentary Constituency

लखनऊ संसदीय निर्वाचन-क्षेत्र

Lucknow City East Assembly Constituency

लखनऊ नगर पूर्व विधान सभा निर्वाचन-क्षेत्र

Part 7;

भाग ७ :

No. 358

क्रमांक : ३५८

** Strike off one of the alternatives as necessary.

**आवश्यकतानुसार काट दिया जाय ।

(To be filled by the Returning Officer)

(निर्वाचन अधिकारी द्वारा भरा जाए)

Serial No. of nomination paper: A11

नाम-निर्देश पत्र क्रमांक :

This nomination was delivered to me at my office at 12-32 P.M. (hour) on

यह नाम-निर्देश मेरे कार्यालय में (बजे)

28th October, 1958 (date) by the **candidate:

(तारीख) को **उम्मेदवार/प्रस्तावक द्वारा मुझे सौंपा गया ।

Date: 28-10-58.

D. L. DUBE,

Returning Officer.

तारीख :

निर्वाचन अधिकारी

Decision of Returning Officer accepting or rejecting the nomination Paper.

निर्वाचन अधिकारी द्वारा नाम-निर्देश पत्र को स्वीकार करने या अस्वीकार करने का निर्णय ।

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951, and decide as follows:—

लोक प्रतिनिधित्व अधिनियम, १९५१, की धारा ३६ के अनुसार मैंने नाम-निर्देश पत्र की जांच कर ली है और निम्नानुसार निर्णय करता हूँ ।—

Returning Officer.

निर्वाचन अधिकारी

Date:

तारीख :

EXPRESS COPYING APPLICATION No. 2642/58

Copy of Election Officer, Jabalpur No. Q/E.O., dated the 20th September, 1958, filed in the court of the Returning Officer, Hoshangabad, in respect of Shri Prem Chand Jain, Jabalpur.

OFFICE OF THE COLLECTOR, JABALPUR.

No. Q/EO.

Jabalpur, dated the 20th September, 1958.

Certified that Shri Prem Chand Jain, son of Narayan Das, 675, Lord Ganj, Jabalpur is a voter of Lordgunj ward. His name appears in the voter list stated above bearing S. No. 3131.

R. L. SHRIVASTAVA,
Election Officer,
for Collector, Jabalpur.

EXPRESS COPYING APPLICATION No. 2642/58

Copy of order passed on 31st October, 1958 in the court of Returning Officer, Hoshangabad, filed in the election file, in respect of Shri Prem Chand Jain.

OFFICE OF THE RETURNING OFFICER, HOSHANGABAD.

ORDER

(Passed on the 31st day of October 1958)

Objection has been raised to the acceptance of the nomination papers filed by Shri Premchand Jain on the following grounds:—

- (i) That the electoral roll No. of proposer and the electoral roll No. of the candidate have not been given in the Nomination paper in the manner in which these columns should be filled in.
- (ii) That the candidate has not filed either a copy of the electoral roll of the constituency in which he is an electoral or a copy of the relevant part thereof or a certified copy of the relevant entries in such roll as required by section 33, sub-section 5 of the Representation of the People's Act, 1951.
- (iii) That the candidate has chosen as his first preference the symbol which is party symbol of the Congress.

2. The objection Nos. 1 and 3 are minor objections and could be over ruled as not forming any substantial objection to the nomination of the candidate. The objection No. 2 is a major objection and I agree with the objector that in the absence of the documents mentioned in section 33, sub-section 5 of the Representation of the People's Act these nomination papers must be rejected.

Accordingly these nomination papers are rejected.

D. L. DUBEY,
Returning Officer,
Hoshangabad.
[No. 82/2/59/3301.]

New Delhi, the 23rd February 1959

S.O. 442.—In pursuance of the provisions of sub-rule (3) of rule 140 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, and in continuation of its notification No. 82/439/57, dated the 9th September, 1958/Bhadra 18, 1880 Saka published in the Gazette of India, Extraordinary Part II—Section 3—Sub-section (ii) No. 188, dated the 13th September, 1958/Bhadra, 22, 1880, the Election Commission hereby publishes the Judgment of the High Court at Calcutta delivered on the 27th January, 1959, on the appeals filed by Sarvashri Brojagopal Das, Nirmal Chandra Das and Biren Roy, against the order dated the 27th August, 1958, of the Election Tribunal, Alipore-Calcutta in Election Petition No. 439 of 1957.

IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

The 27th January, 1959

PRESENT:

The Hon'ble Paresh Nath Mookerjee

AND

The Hon'ble Panch Kari Sarkar.

Two of the Judges of this Court.

Appeal from Original Decrees Nos. 278 of 1958, 279 of 1958 and 282 of 1958 (Election Appeals).

Appeals against the decree of Sri Bijayesh Mukherjee Election Tribunal, Calcutta (West Bengal) in Election Petitions Nos. 439 of 1957 dated the 27th August, 1958.

In No. 278 Brojagopal Das—*Appellant*.In No. 279 Nirmal Chandra Das—*Appellant*.In No. 282 Biren Roy—*Appellant*.*Versus*In Nos. 278 and 279 and 282 Kalipada Banerjee and others—*Respondents*.

Mr. Jitendra Kumar Sen Gupta, and

Mr. Asoke Kumar Sen Gupta in 278.

Mr. Prafulla Kumar Roy, and

Mr. Manash Nath Roy, in 279; and

Mr. S. K. Achariya, and

Mr. Manindra Chandra Chakravarty, in 282—for *appellants*.

Mr. S. M. Bose, Advocate General.

Mr. A. C. Mitter.

Mr. Mahadev Hazra.

Mr. Birendra Nath Banerjee.

Mr. Dipankar Gupta, and

Mr. Dwiljen Lahiri, in all the 3 appeals—for *respondents*.**P. N. Mookerjee J:**

These three appeals are directed against the declaration granted by an Election Tribunal, that a certain parliamentary election is void. The respective appellants are Sri Brojo Gopal Das, and Sri Nirmal Chandra Das, two of the persons who were substituted under section 116 of the Representation of the People Act, 1951, in place of the original contesting respondent before the tribunal, namely, Sri Biren Roy, who was the successful candidate at the above election, upon the latters' retirement from contest, and the said Biren Roy himself is the appellant in the third or the other appeal.

The proceedings had had a chequered career before the Tribunal and they were lively and interesting and the questions that arose for consideration had also their own peculiar difficulties and interest.

The election in question was the last General Election of the Calcutta South West Parliamentary Constituency, held in March 1957 in which Sri Biren Roy was elected from the said constituency to the Lok Sabha or the House of the People. There were three candidates, (one) Biren Roy (two) Arim Krishna Dutta and (three) Rajani Mukerjee. They respectively polled 94,944,82,406 and 11,297 votes at the polling which took place on two dates namely the 4th and the 14th March 1957 and Roy was declared elected on March 20, 1957, when the results of the voting were announced.

On May 3, 1957 the first two respondents of the present appeal, namely, Kalipada Banerjee and Anil Kumar Sadhukhan who "at all material times were citizens of India and residents of Calcutta" within the above constituency and "were electors of the same and entitled to vote" at the above election, applied before the Election Commission, New Delhi, for a declaration that the above,

election namely of Sri Roy was void on certain grounds, of which the relevant ones will be duly noticed and referred to in the course of this judgment. The application (petition) in which originally all the three candidates, the successful Roy as well as the two defeated candidates Dutta and Mukerjee, were made parties as respondents, was registered as Election Petition No. 439 of 1957 and after the necessary preliminaries, it was forwarded by the Chief Election Commissioner and sent for Trial to Sri Bijoyesh Mukerjee, Additional District Judge, 24-Parganas, who had meanwhile been constituted the Tribunal for the purpose under section 86 of the Representation of the People Act, 1951. That was in June 1957, and the first date of appearance of the parties before the Tribunal was fixed as July 18, 1957. On or before that date, the first two respondents, Roy and Dutt, duly appeared before the Tribunal and, on the 25th following the Tribunal by its order of that date, held that, in view of the fact that the only prayer of the petitioners in their instant election petition was for a declaration that the above election, namely, of Biren Roy was void, Roy and none else was the necessary and proper respondent and directed that the names of Sri Dutta and Sri Mukerjee should be struck off. The Tribunal also overruled and the technical objection of respondent Roy to the maintainability of the instant election petition on account of deposit of the security for costs Rs. 1,000 in the name of the Election Commission, New Delhi, instead of in the name of the Secretary to that Commission in literal compliance with section 117 of the Act, holding *inter alia* that there was substantial compliance with the said provision and such substantial compliance was sufficient under the law. The proceedings then continued against the sole respondent Biren Roy and after the preliminary steps had been taken by the parties, the hearing actually commenced on April 25, 1958. Between that date and May 9, 1958 nine witnesses P.Ws. Nos. 1 to 9 were examined by the petitioners of whom two (P.Ws. Nos. 4 and 9) were examined in part during the said period. In the meantime, the Tribunal's order, regarding the validity and sufficiency of the deposit, had been upheld by this court in a proceeding under Article 226 of the constitution and the respondent Roy had applied before the Election Commission for transfer of the instant case to some other Tribunal.

On and from May 10, 1958 certain events of importance happened in quick succession. At the first sitting of the Tribunal on that date the respondent Roy applied for a stay of the proceedings till the disposal of his transfer application by the Election Commission and, that prayer having been refused by the Tribunal and a prayer for a short adjournment of one hour having also been refused, Roy's Advocates retired from the case. Thereafter the proceedings continued *ex parte* from the 10 to the 17th May, 1958, during which period evidence of P.Ws. Nos. 4 and 9 was concluded and the evidence of P.Ws. Nos. 10, 11 and 12 was also taken and P.W. No. 6 was recalled and further examined and then arguments on behalf of the petitioners were heard. The Tribunal, however, had to reserve judgment as meanwhile this court (Sinha J) had issued a Rule, injunction him from delivering judgment until the said Rule was disposed of or until the disposal of Roy's transfer application by the Election Commission, whichever is earlier, and, accordingly, the Tribunal directed the records to be put up on May 24, 1958.

On May 23, 1958 two applications were moved, one by the appellant Nirmal Chandra Das and the other by another person Santosh Kumar Banerjee, praying *inter alia* for appropriate action under section 116 of the Representation of the People Act, 1951, and the said applications were eventually fixed for hearing on the 28th by the Tribunals' order of May 24, 1958. On that very day, however namely the 24th, Roy himself filed an application before the Tribunal intimating to it that he had withdrawn and/or retired from the case on May 10, 1958 and intimating further that he would not oppose the instant Election Petition. All the above three applications were heard by the Tribunal on May 28, 1958 and by its order, dated June 2, 1958, the Tribunal came to the conclusion that the provisions of section 116 of the Act should be set in motion and he directed necessary steps to be taken in terms of that section. The relevant Notification under the section was thereafter published in the Gazette of India Extraordinary on June 16, 1958, and, within the statutory period of 14 days, several persons including the two appellants in the first two appeals before us, applied under section 116 for, *inter alia*, substitution in place of the original respondent Sri Biren Roy and permission to oppose the Election Petition and continue the proceedings on such terms as the Tribunal might think fit and proper.

On July 3, 1958, the Tribunal allowed the said applications upon two terms, viz. (1) "The applicant or the applicants of each application do deposit by July 10, 1958, a sum of Rs. 1,000 (Rupees one thousand only) either in a Government Treasury or in the Reserve Bank of India in favour of the Secretary, Election Commission, New Delhi, as security for costs. The relevant receipt must be filed before this Tribunal on or before that date, viz. July 10, 1958. Should this

direction be not complied with, the applicant or the applicants concerned shall not be substituted in place of the sole respondent Biren Roy and shall not be entitled to continue the proceedings."

and (ii) "The hearing shall continue from the stage at which it was at 10.30 A.M. on May 10, 1958." and issued certain other directives which were recorded as follows:—

- "1. Written statements if any, must be filed by July 14, 1958.
2. Documents, if any, must be filed by July 16, 1958.
3. July 18, 1958 is set down for fixation of new issues, if any, and
4. July 21, 1958 is set down for completion of all steps including citation of witnesses and for setting a date of peremptory hearing. I give an intimation in advance that the election petition shall be set down for peremptory hearing again on or about August 5, 1958".

The deposit was duly made by three sets of applicants including the above two appellants and they also filed written statements. No documents, however, were filed by any party and on July 18, 1958 "the matter of fixation of new issues" was heard by the Tribunal. Eventually, however, the Tribunal did not frame any new issue and proceeded with the trial on the old or "existing" issues, of which all, except the first part of issue No. 3, which as finally recasts was in these terms:

"Is Shri Biren Roy disqualified for being chosen as a member of the Lok Sabha because of his connection with a firm under the name and style of Indo German Trade Centre?"

was given up by the petitioners. The Tribunal, however, by way of clarification, recorded its intention to discuss the above part of issue No. 3, under the following heads, viz.,

- "(i) Did the Indo German Trade Centre enter into a contract with the Central Government for the installation of automatic vote recording equipment in the Lok Sabha and the Rajya Sabha?
- (ii) Was the aforesaid contract subsisting on the date of the election of the returned candidate Shri Biren Roy to wit, on March 20, 1957?
- (iii) Has the returned candidate, Shri Biren Roy, any share or interest in the aforesaid contract?"

and adjourned the case to August 5, 1958, for resumption of the interrupted peremptory hearing, directing the petitioners to bring "all their witnesses, examined on and from May 10, 1958" and directing further that the hearing would continue *de die in diem*, Saturdays and holidays excepted." On August 5, 1958 P.W. No. 9 was cross examined on behalf of the "added" or substituted respondents and discharged and, thereafter, P.W. No. 10 K. C. Ghose, was cross examined in part by the said respondents. This cross examination of K. C. Ghose, P.W. No. 10 continued upto the 7th when it concluded and thereafter, he was recalled and further examined and also cross examined again on the 8th when he was finally discharged and on the same date, P.Ws. Nos. 11 and 12 were also cross examined and discharged and, thereafter the case was fixed for argument on the 16th and "added" (substituted) respondents having intimated to the Tribunal that they would not lead any oral evidence. On the 16th and the 18th, arguments were heard, and thereafter judgment was reserved by the Tribunal till the 27th when the Election Petition was allowed and the election of Sri Roy was declared void by the Tribunal. The present appeals are directed against this declaration, the first two appeals by the two "added" (substituted) respondents Brojo Gopal Das and Nirmal Chandra Das, and that third by the original respondent Biren Roy, the successful or the returned candidate at the said impugned Election.

The controversy in the present case, as we have seen above, centres round the first part of issue No. 3, which we have quoted earlier as hereunder:

"Is Shri Biren Roy disqualified for being chosen as a member of the Lok Sabha because of his connection with a firm under the name and style of Indo German Trade Centre?"

The quoted issue requires a little explanation. In the light of the pleadings (*Vide* Paragraphs 8B of the instant election petition) the relevant allegation is that the firm Indo-German Trade Centre entered into a contract or contracts with

the Government of India or the Central Government for installation of automatic vote recording equipments in the Lok Sabha and the Rajya Sabha which contract (or contracts) subsisted on the date of election and the respondent Sri Roy, at the said material time had share or interest in the aforesaid contract (or contracts) within the meaning of Sec. 7(d) of the Representation of the People Act, 1951 and was as such disqualified to be chosen to be elected to the Lok Sabha under Sec. 100(1)(a) of the said Act. That was the substance of the allegation on which Roy's election was challenged and on which the parties differed and upon which the fate of the instant election petition depended. The Tribunal, therefore, did the right thing in clearing up the matter before the resumed hearing by declaring that the relevant issue that is, the first part of issue No. 3, would be discussed under the three heads which have been set out hereinbefore. Indeed, the above approach of the Tribunal was not objected to by the appellants, but what they complained was, and that was one of their grievances in these appeals, that they were not allowed to place full materials before the Tribunal on the first and to some extent, on the third too, of the above three questions. We shall return to that aspect later on.

In the light of our above observations we shall deal with the controversy in the present case under the above three heads and we proceed to do so *seriatim*.

Upon the written statement of Roy himself (*vide* paragraphs 21 and 22) it is fairly clear that the disputed contract or contracts were made by the Indo-German Trade Centre with the Central Government. Strictly speaking it was not open to the "added" (substituted) respondents who were really substituted in place of Roy under Sec. 116 of the Representation of the People Act, 1951, to deviate from that Pleading and make a new or different case on the point and as a matter of fact, in their applications for substitution, filed on June 24, 1958 the two "added" or substituted respondents who are appellants in the two appeals (F.A. Nos. 278 and 279 of 1958) expressly stated, *inter alia* that they wanted to adopt the written statement of respondent Biren Roy and prayed for permission to do the same and to cross examine P.Ws. Nos. 9, 10, 11 and 12 and file and call for documents, particularly from B. K. Mukherjee (*vide* paragraph 6 and the prayer portion of appellant Brojogopal Das's petition and paragraph 5 and prayer portion of the petition of appellant Nirmal Chandra Das). It is true that thereafter on July 14, 1958 they filed another set of written statements, apparently under the relative directive of the Tribunal, dated July 3, 1958 and therein they sought to supplement Roy's written statement by certain additions, but, even there we do not find anything in effective denial or contradiction of the position, taken up by Roy on the above point in paragraphs 21 and 22 of his above written statement, to which reference has been made by us. As a matter of fact, appellant Nirmal Chandra Das again expressly adopted Roy's written statement and appellant Brojo Gopal also alleged nothing to its contrary. The latter, no doubt, in paragraph 11 of his said new written statement filed on July 14, 1958, stated *inter alia*, that the aforesaid "Indo-German Trade Centre has or had no share or profit or interest in the contract of automatic vote recording equipment referred to by the petitioners in their election petition." But that was hardly an effective denial of Indo-German Trade Centre's being or having been the contracting party with the Central Government in the matter of the said contract or contracts. Even on the pleadings, therefore, apart from any evidence, the first of the above three questions should be answered in the affirmative. But there is evidence also which plainly supports the same (*vide* Exts. 4, 5, 6 and 7 and the oral evidence of P.W. No. 17 and also Ext. A) and indeed, as it appears from the Tribunal's judgment, the above position was practically conceded by Brojo Gopal's Advocate before the Tribunal. Reference may also be made in the above connection to the letters, Exts. 3 series and 8 series, which also lend support to our above conclusion. It will also be seen later on that the appellant's main grievance on this point that they were prejudiced by the Tribunal's refusal to allow certain cross examination of P.W. 10 has no substance in the facts of this particular case.

On the second question too, we feel not the slightest hesitation in agreeing with the Tribunal. Apart from the evidence of P.W. No. 1 on the point, on which the Tribunal relied, we think that the position was admitted that full payment had not been made on the contracts in question till at least, April, 1957, [*vide* letter Ext. 3(48)] and in view of the Supreme Court's decision in the case of Chaturbhuj Vithaldas Jasani Vs. Moreswar Parasharam and others (1954) S.C.A. 378 at pp. 387-8, S.C.A.R. 1954, S.C. 236 at p. 242 until such payment was made the contracts must be held to have been subsisting for purposes of Sec. 7(d) of the representation of the People Act, 1951. The answer to this question also must, therefore, be in the affirmative, as correctly given by the Tribunal. On this part of the case the appellants' argument was that the relevant date would be the

date of election which, according to Sec. 67A of the Act, would be the date of declaration of the result of election, that is, March 20, 1957 and on that date, the disputed contracts were not subsisting, they having been fully executed by that time and only some payment thereunder remaining outstanding. That March 20, 1957 would be the relevant date for the present purpose need not be disputed and as a matter of fact, the question itself was framed or formulated on that footing, but in the view of the law, which we have given above, the answer to the above (second) question would be in the affirmative, even if the relevant date be the 20th March, 1957 as on the facts of this case [vide sub 3(48)] to which reference has been made above and which cannot be disputed, payments under the above two contracts were still outstanding.

The English law on the point may be different [vide for *Royce vs. Birley* (1869) 4 C.P. 296 but even if it is so, in this country and our law the position is, as we have indicated above, in view of the Supreme Court's decision in Chatterbhuj's case, *supra*. That being so, in the facts of this particular case, this question too should be accorded in the affirmative and, accordingly we affirm the Tribunals' conclusion on this point.

We come now to the most difficult part of the case, that is, the third question formulated above, which runs as follows viz., "Has the returned candidate Sri Biren Roy any share or interest in the aforesaid contract?"

This indeed, a very serious matter and required very careful consideration particularly when Roy won the disputed election by the very comfortable margin of 12,538 votes. Such an election should not be lightly interfered with and should not be touched except on very strong and compelling grounds. That as it appears from the Tribunals' judgment was one of the things which the Tribunal had uppermost in its mind and that attitude of the Tribunal is fully justified by the authority of the Supreme Court (*Vide Jagan Nath Vs. Jaswant Singh and others* A.I.R. 1954 S.C. 210 at p. 212). It is to be remembered, however that this by itself, would not be any ground for maintaining the impugned election if it really suffers from any material or fatal defect or infirmity, if for instance, to take this instant case, it ultimately runs out that the successful candidate Roy suffered from the alleged disqualification at the material date, the mere fact that he won the election or won at by a very comfortable margin, may be by overwhelming votes, would not justify the rejection of the instant election petition. It will be only in border line cases or where the ground for setting aside the election or for a declaration that it was void is not wholly or absolutely clear or free from doubt that the elected candidate, by reason of his election, the more so, where he won by a comfortable margin, may have a weightage in his favour and may get the benefit of doubt. In judging, again, the validity of the ground, the court and the Tribunal will undoubtedly be more careful and more circumspect and may demand clearer and more convincing proof of the same and of its basic allegations where the successful candidate was returned by a large majority of votes. We do not think that the elected or the returned candidate is entitled to any greater advantage by reason of his election, be it by a comfortable margin or even if the election will have to be set aside or declared void, if any fatal or material disqualification or defect is made out. Substantially speaking that was also the view of the Supreme Court in Jagannath's case [vide A.I.R. 1954, S.C. 210 at p. 212 para. 7 (second part)]. Notwithstanding, therefore the fact that Roy was returned with a comfortable majority, we have to examine though very carefully, because of his said comfortable margin, the disqualification, from which he (Roy) was alleged to suffer at the material time.

As noted above, the election has been impeached on the ground that, on the date of the election, Roy was disqualified to be chosen to fill the seat or for being a member of the House of People (Lok Sabha) and the disqualification alleged is that at the material date and at the material times, Roy had an interest or share in the business, carried on under the name and style of Indo German Trade Centre, which entered into the above contract or contracts with the Government of India for supply of automatic vote recording system (equipment) to the Lok Sabha or the House of the People and to the Council of State or the Rajya Sabha which contract or contracts were subsisting at the said materials date namely, the date of the election. That, indeed, as we have said above was the substance of the allegations in Paragraph 8B of the election petition which is the only material paragraph for our present purpose. the other allegations of corrupt practices etc. having been expressly given up by the petitioners. In short, therefore, Roy's election was sought to be set aside or declared void under Sec. 100(1)(a) read with Section 7(d) of the Representation of the People Act, 1951 [and Act 102(1)(e) of the Constitution] in the light of Section 67A of the said Act. That was the real issue, on which the parties fought before the Tribunal, and there was not

the slightest doubt or misgiving on the point in the mind of either and our present task is to find out how that issue should be answered.

Before we take up the above crucial question on the merits we have to make some further preliminary observations. We have held above that the Indo-German Trade Centre entered into the aforesaid contract or contracts with the Central Government and that the same was or were subsisting on the material date, that is, the date of election. The point, therefore, that *prima facie* remains for consideration is whether Roy had, by himself or by any person or body of persons in trust for him or for his benefit or on his account at the material date referred to hereinbefore namely, March 20, 1957, any share or interest in the aforesaid contract [which were undeniably contracts for supply for goods to or for the execution of works undertaken by the Central Government—the appropriate Government for purposes of section 7(d) (*vide* Section 9(a) in regard to a parliamentary election) within the meaning of the said Section 7(d). This has been attempted to be proved by the petitioners by alleging and seeking to establish that Roy was the proprietor of the said business concern Indo-German Trade Centre or at any event, at all material times or at the material date, had a share or interest therein and thus a corresponding share or interest in its aforesaid contracts within the meaning of Section 7(d) so as to come within the mischief of the said section. The appellants before us who were the respondents before the Tribunal deny the above allegation of the petitioners and they further contend that even if the petitioners succeeded in establishing that Roy was the proprietor of Indo-German Trade Centre or had a share or interest therein and, necessarily, therefore, in its aforesaid contracts with the Government of India, that would not be sufficient to disqualify him under the above section or sections or provisions of law, referred to hereinbefore unless it was further proved that the said firm had some financial or pecuniary interest in or under its aforesaid contracts. As *prima facie* the contracts in question disclosed such interest, the appellants had to prove the contrary and this they endeavoured to prove by attempting to lead evidence that, in the matter of the said contracts, the Indo-German Trade Centre was a mere Contract agent of a German firm Telefonbau Und Mormalzeit G.M.B.H. which was the real tenderer or contracting party and that it (the Indo-German Trade Centre) had, no financial or pecuniary interest in the deal. This was not specifically raised or pleaded in the appellant's written statements nor does it appear that they offered or intended to adduce any evidence on the point (beyond what is on record) except by an attempt cross examination of P.W. 10. K. G. Ghosh. The cross examination however was not allowed by the Tribunal and, because of that a grievance has been made before us. We do not think, however, that there is any substance in that grievance in the facts of this particular case. It is fairly clear from what we have stated above that apart from the disallowed cross examination and other relevant evidence on the point (which the parties cared or intended or chose to produce) is on the record. It is clear also that in view of the said evidence and the nature of the particular question or questions which were sought to be raised by the appellants in the present case, the cross examination of P.W. 10 K. G. Ghosh would not have improved their (the appellant's) position. There was also some justification for disallowance of the above cross examination in view of the absence of the relevant allegations—to wit specific allegations on the point in the appellants' written statements. In any event, we are perfectly satisfied, upon the facts before us, that no prejudice was actually caused to the appellants by such disallowance as aforesaid and they have no sufficient cause for any material grievance on the point.

With the above preliminary observations we proceed to consider the question of Roy's alleged statutory disqualification on the merits. That involves mainly construction of section 7(d) of the Representation of the People Act, 1951, and its application to the facts of this case. The question of construction in its turn mainly depends upon the meaning to be given to the words "share or interest" used in the section. *Prima facie* the words are wide and having regard to the purpose of the section and the mischief it is intended—and seeks—to prevent we would have been glad to take the words in the widest import. For our present purpose however, it will not be necessary to go so far as, even on the restricted meaning, which at least the words should bear on the decided authorities, this appeal upon the facts before us, should fall and Roy should be held to be sufficiently disqualified within the mischief of the relevant sections or sections or statutory provisions so as to lose his present seat in the House of the People and this election petition should succeed.

Provisions like section 7(d) have been a familiar feature of election laws from very early times. They are based on a sound, solemn and salutary principle which democracies or democratic constitutions can ill afford to spare or

ignore. Their purpose is to guarantee the purity of the legislature and of the administrative machinery as well and it has been variously put by various eminent judges and noted authorities but always with an eye to the guarantee of purity of the legislature and administration and to keep the source or the fountain head of law and the stream of administration unsullied and free from corruption. The basic standpoint is "to prevent conflict between interest and duty which would otherwise inevitably arise (per Lindley L.J. in *Norton Vs. Wilson* (1889) 22 Q.B.D. 744 at p. 748) and to prevent the member concerned from being exposed to temptation or even the semblance of temptation (per Lord Graham M.R. in the same case *Norton Vs. Wilson* (1889) 22 Q.B.D. 744 at p. 747) and that has never been questioned. It has also been authoritatively laid down that "a concealed interest is as much as interest as an open interest, and the court in such matters will always look at the substance and not at the colourable exterior (Per Mc. Cardie J. in *Evereth V. Griffiths* (1924) 1 K.B. 941 at P. 947). It has been ruled further that "no device to conceal the real nature of the transaction would prevail (per Lord Lovelock L.C. in *North V. Taylor* (1906) A.C. 378 at P. 380). In that context, the word 'interest' in section 7(d) may well receive a wide connotation and may well include even more than material interest but, for reasons which it is not necessary to examine now, decisions have restricted it to pecuniary or at the most material interest and that, as well shall presently see, being sufficient for our present purpose, any further discussion on the point of construction is unnecessary.

As we have said above, the petitioners' material allegations for purposes of section 7(d) are of a two fold character, namely that at all material times and at the material date, Roy was the proprietor of the concern Indo-German Trade Centre or at any event had share of interest therein and in its aforesaid contracts within the meaning of the said section so as to fall within its mischief. To prove their case, the petitioners relied in particular on the evidence of P.Ws. 1, 9 and 10 and upon Exts. 3, series 4, 5, 6, 7, 16, 19(4), 21, 23, 23(1) and 27. The appellants who were the contesting respondents at different stages of the proceedings before the Tribunal did not adduce any oral evidence but cross examined the petitioners' witnesses. They also produced certain documents. It is significant however, to note that notwithstanding the very serious allegations against him and the fact that his election was in jeopardy, Roy did not care to examine himself nor was he summoned or produced on behalf of the other appellants, and as a matter of fact, no attempt was made in that behalf to deny the petitioners' above allegations. Significantly also Shri B. K. Mukherjee, who was admittedly Roy's brother in law and who according to Roy and the other appellants, was the sole proprietor of the above concern was not examined by the appellants, and no attempt also was made by them in that behalf and there is no explanation either before the court for the non-examination of Roy and or Mukherjee or the absence of any attempt on the appellants part for their production in court and examination. Roy and Mukherjee were undoubtedly two of the most competent witnesses on the above controversy between the parties and there can be no question also that they would have been available to the appellants, if they had so desired. In these circumstances, the burden that undoubtedly lies upon the petitioners of proving their above allegations that Roy was the proprietor of the concerned Indo German Trade Centre—or had there or interest therein and in its aforesaid contracts within the meaning of section 7(d) at the relevant date is comparatively light and the dice is cast heavily against the appellants to prove the contrary and support their denial of the same. The initial onus is undoubtedly on the petitioners to make out a case, as pleaded by them, but once they succeed in making out such a case *prima facie* and their said task is rendered easier by reason of the above circumstances—the appellants have to refute the same to secure a dismissal of the instant election petition.

In the light of what we have said above, the petitioners' evidence appears to us to be sufficient for proving that Roy had at least a material interest in the firm or alternatively, had a share therein, although. *Prima facie* at least the Central Government. That will be sufficient for disposal of this appeal and it will not be strictly necessary to go into their (the petitioner's) other allegation namely that Roy was the proprietor—to wit, the sole proprietor—of the above firm or alternatively, had a share therein, although *prima facie* at least the materials on record may appear to contain some indication that Roy had proprietary interest in the said firm—either alone or jointly with B. K. Mukherjee.

We may just remind ourselves at this stage that what is required under the section (Section 7(d)) is share or interest in the relevant contract though that interest, as we have held above, may well be material as distinguished from pecuniary interest, strictly so called. In order, therefore that a person may be held disqualified under the above statutory provisions it may be necessary to

prove as argued by the appellants not only that he (the said person) had a share or interest (material interest) proprietary or otherwise—in the firm which had or held the particular contract or contracts with the relevant Government but also that the said contract or contracts were such as to be capable of conferring upon him or to put it a little more elaborately upon the firm and through it upon him—at least a material interest therein. For purposes of this case we need not dispute that proposition but we accept it and proceed on that footing.

That, in the two relevant contracts, constituted by the relative tenders and acceptance (*vide* Exts. 4:5 and 6 and Ext. 7) Indo-German Trade Centre had a pecuniary or at least a material interest is amply proved by the said exhibits, read in the light of the correspondence (Exts. 3(3) 3(19) and 3(48) and even of Ext. A(1) produced by the appellants themselves). It is true that in some of the papers (*vide eg.*, Exts. 4, 5, 7 and A(1) Indo German Trade Centre is described as the contract firm for the manufacturer tenderer Telefonbau und Normalzeit g.m.b. It is true also that some of the letters, Exts. F and A(1) in particular deny that they (Indo-German Trade Centre) would have any profit out of the above two transactions. But taking the whole of the above documentary evidence in its entirety and reading it as a whole we have little doubt that the said firm had a pecuniary or at least a (sufficient) material interest in the above two contracts. It is well established now (*vide* England V. Inglis (1920) 2 K.B. 638 and Everett v. Griffiths (1924) 1 K.B. 941 at pp. 948 that interest in the above context does not necessarily postulate a pecuniary advantage or the possibility thereof and it may as well include pecuniary loss or disadvantage and corresponding possibility. If then Indo-German Trade Centre was, as we have held above, the contracting party for purposes of the aforesaid contracts, so far as the Central Government was concerned, it must be held to have had a material interest therein as it would have been liable for any defect, irregularity or default in the matter of their performance, and therefore, had at least the possibility of a pecuniary disadvantage thereunder. Even if they were mere contract agents for purposes of the above two contracts they had the risk of losing their reputation as good or efficient contract agents and that would have affected their business in case of delay and or difficulty in the matter of payment and, as a matter of fact, such delay and difficulty has actually arisen in this case (*vide* Exts. 3(48), 3(42), 8(29), 8(30) and 8(36)). It appears also that the Indo-German Trade Centre was actually out of pocket to a considerable extent in connection with the for the purpose of the above contracts (*Vide* Ex. 3(36), 3(19) and 3(48)). In these circumstances we are of the opinion that they had sufficient interest to wit sufficient material interest—within the meaning of the section at least in the shape of material loss or disadvantage or possibility thereof. The initial requirement under the section as contended for on behalf of the appellants is thus amply satisfied in this case.

Turning to the question of Roy's interest in the firm we may refer at once to Ext. 19(4) which appears to be a letter over Roy's signature. That it bears Roy's signature has not been denied or disputed before us. In fact, that signature has been admitted on behalf of the appellants. What is contended, however, is that the letter (Ext. 19(4)) is not Roy's as Roy, according to the appellant had signed the letter in blank. This is merely a suggestion and, in the absence of Roy who could have himself deposed and appeared in the witness box and who could easily have been examined by the other appellants too, if he or they were so minded, and who certainly could have explained it, if he had so desired and if it was capable of explanation, we are not inclined to accept the above suggestion. Our attention has no doubt been drawn to Roy's passport (Ext. L) which is said to prove that Roy was away from India from August 24, 1952 to October, 26, 1952 whereas the letter (Ext. 19(4)) bears that the date October, 23, 1952, thus lending apparent support to the petitioners' above suggestion but we are not convinced. We have grave doubts as to whether the passport (Ext. L) can be regarded as a public document and whether it has been rightly admitted into evidence in the absence of examination of the official who made the relevant entries which again are not very explicit or clear or very intelligible. But even accepting the passport entries and conceding that Roy was away from India from August, 24, 1952 to October 26, 1952 as appearing therein, it is not improbable that the letter might have been kept ready for Roy's signature with the date (23rd October, 1952) as typed on it, in view of this impending arrival and might have actually been signed and despatched after the 26th. The pencil entry (28/10) on the letter again may well be the date of receipt by the addressee which will support the above view. But in any event, the passport entries are not sufficient by themselves, to show that the letter (Ext. 19(4)) must have been signed in blank and in our opinion the vague suggestion to Ghosh (P.W. 10) in cross examination (to which of course, his answer was not very satisfactory or a clear denial that Roy might have left signed blank

papers with him does not necessarily or materially alter the position in the particular facts of this case, Roy not having deposed to explain the true position. We are also of the view that the letter [Ext. 19(4)] having regard to its phraseology—and the words 'our business' are significant in that respect, is sufficient indication of Roy's interest to wit, material interest, in and of his intimate connection with, the business Indo German Trade Centre. The letter again bears the letter head or inscription 'Indo German Trade Centre, 28, Stephen House, Dalhousie Square East, Calcutta-1' and it is admittedly a letter paper of the said concern and, in the absence of any explanation or denial from Roy in the witness Box, it may safely be taken that 'our business' had reference to the said concern. Even if the particular letter paper had been signed in blank like other similar letters of papers and the body of the letter [Ext. 19(4)] had been manufactured thereon as suggested by the appellants it is difficult to dismiss it from consideration as it is inadmissible that Roy would have so signed it, had he not been intimately connected with the concern Indo German Trade Centre either as proprietor or having a share or interest—to wit, material interest—therein. This letter [Ext. 19(4)] is therefore a very significant document and is sufficient in our opinion, in the facts of this particular case and in the contest of Roy's absence from the evidence above to prove Roy's material interest in the concern Indo German Trade Centre and so in the two contracts under consideration.

The cheque Ext. 16, again along with the Bank papers Exts. 23, 23(1) and 29 also support the above position. They show and that is not disputed that on or about 20th October 1955 appellant Biren Roy received a sum of Rs. 1190/- from Indo German Trade Centre. P.W. 10 K. C. Ghosh has deposed that the above payment was made to Roy as proprietor of Indo German Trade Centre on account of the profits of the said concern but even if we do not accept the said statement, the payment at least shows that Roy had some financial connection with the said firm. Roy has not deposed to explain the above payment and the only attempt that has been made by the appellants in that behalf is the production of the audited balance sheet of the firm of an earlier year namely 1954 and to argue therefrom that Roy was a mere to wit an ordinary creditor of the firm and had a loan account, as shown in the said balance sheet, presumably as such creditor. We are, however, wholly unconvinced by that argument and attempted explanation on the part of the appellants particularly in the absence of Roy and also of B. K. Mukherjee from the witness box, and the paper (Ext. E) produced by the appellants for the above purpose, is in our opinion, wholly insufficient to support the said explanation. Indeed, it seems to us that had the appellant's said explanation been true, other and much better materials could and would have been produced by them. In this context and in the present state of the record, we are inclined to think that Roy had sufficient financial interest in the firm no business of Indo German Trade Centre and was at least the financier, if not the proprietor of the said firm namely Indo German Trade Centre, and that would certainly give him a material interest in the said firm and in its aforesaid contracts, sufficient to bring him within the mischief of section 7(d).

It appears further from the compromise decree (Ext. 21) that Roy was the tenant in occupation of Room No. 28, Stephen House (where the Indo German Trade Centre had its office) up to 1955 and undertook the liability for rent up to March 1955 and also for damages for use and occupation for April and May of that year. It appears also from the balance sheet, Ext. E that the Indo German Trade Centre was not paying the rent, the appellants not having contended that the said firm's liability under the loan account of Roy was for rent of its said business premises. It follows, therefore, that Roy was paying the rent etc. for the Indo German Trade Centre's business premises and he was therefore, at least materially interested in its contract or contracts even if he was not its proprietor nor had any share or other pecuniary or financial interest therein—within the meaning of section 7(d) [vide in this connection (1920) 2. K.B.636].

In the above context the letter (Ext. 3) also may be read to support above conclusion. We are just incidentally referring to the said letter as even without that, the conclusion in view of our foregoing discussion would be the same. In that view, it is not strictly necessary to consider the question of privilege raised in connection with the said letter (Ext. 3) but as the said question has been fully argued before us, we proceed to express briefly our views on the same. Privilege has been claimed by the head of the department which had produced the letter on subpoena from the Tribunal. The claim has been made by a purported affidavit which, however, is not properly sworn. That defect, however, may be ignored as it has been by the Tribunal. The answer depends on three sections of the Evidence Act, namely, sections 123, 124, and 162 to quote all the relevant provisions on the point. So far as the present case is concerned, the decision would really turn on the answer to the question as to who is the proper authority

for deciding whether a particular document relates to affairs or matters of State so as to justify or establish a claim of privilege. The question of privilege has been considered by the Privy Council (*vide* Hentry Gour Robinson *v.* The State of South Australia 35 C.W.N. 1121) and also by the House of Lords (*vide* Duncan and another *v.* Cammell Laird & Co. Ltd. 1942 A.C. 624) and by this court too in *Ijjetali Talukdar v. Empress* 47 C.W.N. 928. As the law on the point has been codified in this country in the sections, quoted above, we would prefer to go by the terms of the said sections and, on the construction of the said terms, we respectfully agree with this court's view, as expressed in the cited authority (47 C.W.N. 928). We do not deem it necessary to refer to the other decisions on the point, e.g. *Bhaiya Saheb Dajibabhan Kumbi, v. Pandit Ramnath Rampratap A.I.R. 1938 Nag. 358*, *Khawja Nazir Ahmad v. Emperor AIR 1944 Lah. 434* and *Governor General in Council v. H. Peer Mohd. Khoda Bux and others A.I.R. 1950. E.P. 228* and as to the case of *Irwin v. Reid* reported in *I.L.R. 48 Cal. 304* which appears to support the contrary opinion it is enough to say that even on principle on which correctly speaking it purports to proceed it is inconsistent with the Privy Council's exposition of the same in Robinson's case (35 C.W.N. 1121) which is better suited to conditions in this country than the other exposition as given by the House of Lords (*vide* Duncan and another *v.* Cammell Laird and Co. Ltd. 1942 A.C. 624). As a matter of fact also Irwin's case has been held to require modification (*vide* 47 C.W.N. at P. 934). In the above view of the law, we agree with the Tribunal in overruling the Claim of privilege in respect of Ext. 3, in the light of the events which happened before the tribunal and which have been recorded by it in its order No. 34 dispensing with the necessary of other evidence under sec. 162 of the Indian Evidence Act.

We have so long studiously avoided placing any reliance on the evidence of either P.W. 9 or P.W. 10 who seek to make out that Roy was the proprietor of the Indo German Trade Centre as in our opinion these witnesses do not appear to be wholly disinterested at any rate they do not seem to be quite safe or dependable witnesses. It may be argued, however, that at least the evidence of these two witnesses, where it is supported or corroborated by circumstances or other evidence, may well be accepted and that their statements to the above effect receive such support or corroboration from the exhibits to which reference has been made by us, and even the release or disclaimer (Ext. G) which apparently suggests the contrary may be explained away by reference to and in the light of Ext. 27 and the attending circumstances and that Ext. 3(10) was a necessary corollary to Ext. C and does not really affect or alter that position. That may well be a plausible argument, particularly when Roy and Mukherjee who could and should have been examined by the appellants to contradict the said statements and explain the true position if it was otherwise, were not examined and did not take the oaths on the witness box. We do not however, deem it necessary to examine it or express any opinion on this extreme argument of the petitioners respondents as on our finding already made, that Roy had at least a material interest in the aforesaid concern—and so in its aforesaid two contracts even though he may not be its proprietor, section 100(1)(a) read with section 7(d) and section 67A after representation of the people Act, 1951 and Art. 102(1)(a) of the constitution would invalidate his present election and the instant election petition would succeed on the ground of his said disqualification under the statute.

One word before we conclude the above part of the case. We have freely confess drawn adverse inference against the appellants for non-examination of Roy and Mukherjee and for non production of some documents (which might and ought to have been produced by them) and for the absence of any attempt on their part in that behalf. This was one by us notwithstanding the fact that the Tribunal chose not to do so, being of the opinion that it was unnecessary. We think however that what we have done is amply justified in the circumstances of this case by the authority of the Privy Council (*vide* *Murugesam Pillia v. Manickavasaka Pandarn and others 44. I.A. 98 of 103 Gurbakash Singh v. Gurdial Singh and another 32. C.W.N. 119 at p. 124 and Mussammat Lal Kunwar v. Chiranji Lal 37 I.A. 1 at pp. 4-5*). We may add further that the case of *Bilas Kunwar v. De'raj Ranjit Singh 42 I.A. 202 at 206-207* does not also stand in our way as the relevant circumstances there were entirely different and the relative observations were made in a wholly different contest.

A small point was also argued before us on behalf of the appellants touching the maintainability of the instant election petition on the allegation that it was not presented by a duly authorised person as required by the statute. The petitioners by Sri Ashoke Krishna Dutta. The statute requires authority in writing for such presentation [*vide* section 81(2) (ii) of the Representation of the

People Act, 1951] and there is no such direct authority on the present record. Accordingly the point is taken that the petition was not duly presented. The petition however, bears an endorsement of the Secretary, Election Commission as to due authority of Sri Dutt and due presentation and in the absence of an issue on the point to which the Appellants never objected in time and for which they are as much responsible as anybody also in view of what is recorded in Tribunal's order No. 14 and which presumably explains the lack or paucity and absence of direct evidence on the point particularly the full records of the Election Committee we think the presumption, arising from the above official endorsement, should be held sufficient to repel the appellants' above argument.

Lastly we would refer to the present respondents' preliminary objection taken to Roy's appeal on the ground that he, having retired from the contest and having intimated to the Tribunal that he would not oppose the election petition, had no *locus standi* to file or maintain the above appeal. We do not think however that that objection is at all material or need be considered in view of the other two appeals which seek the same relief and to which no such objection can be taken and as further the appeals on our findings made above would fail on the merits.

In the result then we overrule the appellants' contentions and dismiss these appeals and upheld the Tribunal's order, declaring the instant election of Sri Biren Roy to be void under the law.

As to costs however we would take a different view from the Tribunal. As it is fairly clear from the records before us that the petitioners in this election petition have been set up by the defeated candidate Sri Ashim Krishna Dutt and as a large mass of unreliable oral evidence has been introduced in the case by the petitioners, we do not allow them any costs either here or in the Tribunal below notwithstanding the circumstances, pointed out by the Tribunal in support of its award for costs in their (the petitioners) favour and we set aside the Tribunal's said order for costs, directing that each party would bear his or their own costs throughout and, subject as above, the appeals are dismissed.

Let a copy of this order be sent to the Election Commission New Delhi, as quickly as possible.

Sarkar J.

I agree.

True Copy.

(Sd.) Assistant Registrar.

[No. 82/439/57/3367.]

By Order

DIN DAYAL, Under Secy

MINISTRY OF LAW

(Department of Legal Affairs)

New Delhi, the 21st February 1959

S.O. 443.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution and in supersession of the Notification of the Government of India in the Ministry of Law No. S.O. 2064 dated the 4th October, 1958, the President hereby directs that agreements relating to the safe custody of cycles in the cycles shed in the compound of the office of the Accounts Officer, Telephone Revenue (North), Delhi, shall be executed on his behalf by the Accounts Officer, Telephone Revenue (North), Delhi.

[No. F.44(11)/58-J.]

P. K. BOSE, Dy. Secy

MINISTRY OF FINANCE**(Department of Expenditure)**

New Delhi, the 13th February 1959 .

S.O. 444.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, the President, after consultation with the Comptroller and Auditor General of India in respect of persons serving in the Indian Audit and Accounts Department, hereby directs that the following further amendment shall be made in the General Provident Fund (Central Services) Rules, namely:—

In the first schedule to the said rules in the heading in the last column of the forms of nomination, the words "or on the happening of the contingency or contingencies specified in the previous column" shall be omitted and shall be deemed always to have been omitted.

[No. F.40(3)-E.V./59.]

New Delhi, the 14th February 1959 .

S.O. 445.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, the President, after consultation with the Comptroller and Auditor General of India in respect of persons serving in the Indian Audit and Accounts Department, hereby directs that the following further amendment shall be made in the Contributory Provident Fund Rules (India) namely:—

In the first schedule to the said rules in the heading in the last column of the forms of nomination, the words "or on the happening of the contingency or contingencies specified in the previous column" shall be omitted and shall be deemed always to have been omitted.

[No. F.40(3)-E.V./59.]

D. D. BHATIA, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 18th February 1959

S.O.446.—Statement of the Affairs of the Reserve Bank of India, as on the 13th February 1959.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	10,84,16,000
Reserve Fund	80,00,00,000	Rupee Coin	1,99,000
National Agricultural Credit (Long-term Operations) Fund	25,00,00,000	Subsidiary Coin	3,28,000
National Agricultural Credit (Stabilisation) Fund	3,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal
(a) Government		(b) External
(1) Central Government	65,81,86,000	(c) Government Treasury Bills	7,19,53,000
(2) Other Governments	21,98,76,000	Balances held abroad*	28,12,46,000
(b) Banks	72,43,31,000	**Loans and Advances to Governments	27,79,27,000
(c) Others	114,92,72,000	Other Loans and Advances	96,81,90,000
Bills Payable	19,30,20,000	Investments	259,78,12,000
Other Liabilities	34,73,84,000	Other Assets	11,59,98,000
TOTAL	442,20,69,000	TOTAL	442,20,69,000

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

The item 'Other Loans and Advances' includes Rs. 5,52,51,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

Dated the 18th day of February 1959.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 13th day of February 1959

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department	10,84,16,000		A. Gold Coin and Bullion :—		
Notes in circulation	16,68,14,26,000		(a) Held in India	117,76,03,000	
Total Notes issued		1678,98,42,000	(b) Held outside India	
			Foreign Securities	178,00,89,000	
			TOTAL OF A.		295,76,92,000
			B. Rupee Coin		131,76,49,000
			Government of India Rupee Securities		1251,45,01,000
			Internal Bills of Exchange and other commercial paper
TOTAL—LIABILITIES		1678,98,42,000	TOTAL—ASSETS		1678,98,42,000

Dated the 18th day of February, 1959.

[No. F. 3(2)-BC/59.]

H. V. R. IENGAR, Governor.

New Delhi, the 23rd February 1959

S.O. 447.—In pursuance of clause (a) of sub-section (1) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government hereby appoints Shri Mangaldas M. Pakvasa of 'Purnima', 29, Dongersey Road, Bombay, as Vice-Chairman of the State Bank of India for a period of two years with effect from the date on which he assumes charge of his office.

[No. F. 8(9)59-SB.]

A. BAKSI, Jt. Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 23rd February 1959

S.O. 448.—In exercise of the powers conferred by sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue hereby makes the following amendments in the Schedule appended to its Notification S.O. 660 No. 35 dated the 22nd April, 1958, namely:—

In the said Schedule under the Sub-head "IX-Madhya Pradesh and the Districts of Nagpur and Bhandara" for the existing entries in columns 1 and 2 the following entries shall be substituted, namely:—

Indore

1. A-Ward, Indore.
2. B-Ward, Indore.
3. C-Ward, Indore.
4. D-Ward, Indore.
5. E-Ward, Indore.
6. F-Ward, Indore.
7. G-Ward, Indore.
8. H-Ward, Indore.
9. J-Ward, Indore.
10. A-Ward, Ratlam.
11. B-Ward, Ratlam.
12. A-Ward, Gwalior.
13. B-Ward, Gwalior.
14. C-Ward, Gwalior.
15. A-Ward, Ujjain.
16. B-Ward, Ujjain.
17. C-Ward, Ujjain.
18. A-Ward, Bhopal.
19. B-Ward, Bhopal.
20. A-Ward, Khandwa.
21. Multipurpose Project Circle, Ratlam.

Nagpur

1. Special Circle I.
2. Special Circle II.
3. Special Circle III.
4. Special Circle IV.
5. A-Ward, Nagpur.
6. B-Ward, Nagpur.
7. C-Ward, Nagpur.
8. D-Ward, Nagpur.

9. E-Ward, Nagpur.
10. F-Ward, Nagpur.
11. G-Ward, Nagpur.
12. H-Ward, Nagpur.
13. Special Estate Duty-cum-Income-tax Circle, Nagpur.
14. Salary Circle, Nagpur.
15. Chhindwara.
16. Rajnandgaon.

Jabalpur

1. A-Ward, Jabalpur.
2. B-Ward, Jabalpur.
3. C-Ward, Jabalpur.
4. Sagar.
5. Bilaspur.
6. Raigarh.
7. A-Ward, Satna.
8. B-Ward, Satna.
9. A-Ward, Raipur.
10. B-Ward, Raipur.
11. C-Ward, Raipur.
12. B-Ward, Khandwa.

Explanatory Note

NOTE.—The amendments have become necessary on account of the re-organisation of the Appellate Assistant Commissioners' Ranges in the charge of the Commissioner of Income-tax, Madhya Pradesh and the Districts of Nagpur and Bhandara.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 25 (F. No. 50/26/58-IT).]

S.O. 449.—In exercise of the powers conferred by sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue hereby makes the following further amendments to its notification S.O. 660 No. 35 Income-tax, dated the 22nd April 1958, namely:—

In the Schedule appended to the said notification under the Sub-head "XV—West Bengal":—

- (a) against "A" Range, Calcutta: the existing entry "2. District III(1), Calcutta" shall be deleted and the subsequent entry "3" shall be renumbered as "2";
- (b) for the words "K" Range, Assansol and "L" Range, Jalpaiguri appearing in col. 1 of the said notification the following words shall be substituted namely:—
 'K' Range, Calcutta;
 'L' Range, Calcutta;
- (c) against 'K' Range Calcutta, after the existing entry "5 Assansol" the following entries shall be added:
 "6. District III(I), Calcutta;
 7. Special Survey Circle IV, Calcutta."
- (d) against 'L' Range, Calcutta: after the existing entry "4-Sillguri", the following entries shall be added, namely:—
 "5. District VI, Calcutta;
 6. Special Survey Circle VIII, Calcutta;
 7. Special Survey Circle IX, Calcutta;"

(e) against 'M' Range, Calcutta; the following entries shall be deleted:—

- "5. District VI, Calcutta;
6. Special Survey Circle VIII, Calcutta;
7. Special Survey Circle IV, Calcutta;
8. Special Survey Circle IX, Calcutta."

Explanatory Note

NOTE.—The amendments have become necessary on account of the reorganisation of the Appellate Assistant Commissioners' Ranges in the charge of Commissioner of Income-tax, West Bengal.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 26 (F. No. 50/32/58-IT).]

S.O. 450.—In exercise of the powers conferred by sub-section (2) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), and in partial modification of all previous notifications on the subject, the Central Board of Revenue hereby directs that with effect from 16th February 1959 (forenoon), Shri P. C. Goyal shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Assam and the Union Territory of Manipur and Tripura:

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him.

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any income-tax authority outside his jurisdictional area.

While performing the said functions the said Shri Goyal shall be designated as the Commissioner of Income-tax, Assam, Manipur and Tripura with headquarters at Shillong.

Explanatory Note

NOTE.—The amendments have become necessary due to the change in the incumbent of the Commissioners' Charge.

The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 27 (F. No. 55/27/59-IT).]

B. V. MUNDKUR, Under Secy.

DIVISIONAL OFFICE, CENTRAL EXCISE & CUSTOMS, BOMBAY III DIVN.

NOTICE

Bombay, the 16th February 1959

S.O. 451.—Whereas it appears that the registered post parcel No. 118 containing 7 O'clock blades was seized from postal authorities at Girgaum post office, Bombay by the preventive officers of the Central Excise Department on 14th October, 1958, on a reasonable belief that the goods contained in the parcel were imported into India in contravention of Section 5(1) of the Land Customs Act, 1924 and Government of India, Ministry of Commerce & Industry Control Order No. 17/55 dated the 7th December 1955 issued under Import & Export Control Act, 1947 and deemed to have been issued under section 19 of the Sea Customs Act, 1878. Show cause notices were issued to Shri S. S. Palav, the despatcher of the said parcel and Shri Anant Sonu Bhole, the addressee of the parcel but the same were received back from Postal authorities under remarks "Not Known".

Now, therefore, Shri S. S. Palav and Shri A. S. Bhohe, claiming the goods are hereby called upon to show cause to the undersigned why the said goods should not be confiscated under section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of Sea Custom Act, 1878 and why a penalty should not be imposed under Section 7(i)(C) of Land Custom Act, 1924 read with Section 167(3) and/or 167(8) of the Sea Customs Act, 1878.

If Shri S. S. Palav and Shri A. S. Bhohe fail to turn up to claim ownership of the goods or to show cause against the action proposed to be taken within 30 days from the date of publication of this notice in the Government of India Gazette/Bombay State Government Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII/25-104/58/Prv.Cus.]

R. N. SHUKLA, I.R.S., Asstt. Collector.

MINISTRY OF STEEL, MINES AND FUEL

(Deptt. of Mines & Fuel)

ORDER

New Delhi, the 20th February 1959

S.O. 452.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clauses (c), (e), (f), (h) and (j) of sub-section (2) of that section shall, in relation to Kerosine Oil, be exercisable also by the State Government of Orissa.

[No. 104(13)/59-PPD.]

S. K. MUKHERJEE, Dy. Secy.

MINISTRY OF COMMERCE AND INDUSTRY

Bombay, the 13th February, 1959

S.O. 453.—In exercise of the powers conferred on me by sub-clause (1) of clause 3 of the Cotton Control Order, 1955, I hereby direct that the following further amendment shall be made in the Textile Commissioner's Notification No. S.O. 2076 dated 27th August, 1958, namely:—

In the said Notification, in clauses (a) and (b) of sub-paragraph (8) of paragraph 2, after the words "Rajapalayam cotton" the words, letters and figure "M.A. 5 cotton" shall be inserted.

D. S. JOSHI Textile Commissioner.

[No. F.24(44)Tex(A)/57.]

V. V. NENE, Under Secy.

New Delhi, the 19th February 1959

S.O. 454/RLIUN/18/1.—In pursuance of rule 18 of the Registration and Licensing of Industrial Undertakings Rules, 1952, and in supersession of the notification of the Government of India in the late Ministry of Heavy Industries No. S.R.O. 141, dated the 10th January, 1957, the Central Advisory Council of Industries hereby constitutes the Sub-Committee consisting of the following members, namely:—

1. Pt. Hirday Nath Kunzru, M.P.—Chairman.
2. Shri A. Ramaswami Mudaliar, M.P.
3. Shri Mangtu Ram Jaipuria.
4. Shri Bagaram Tulpule.

5. Shri N. D. Sahukar.
6. Shri B. C. Ghose, M.P.
7. Mr. J. D. K. Brown.
8. Shri B. P. Singh Roy.

2. The functions of the Sub-Committee will be to review all licences issued, refused, varied, amended or revoked from time to time and to advise Government on the general principles to be followed in the issue of licences for establishing new undertakings or substantial expansion of the existing undertakings.

3. The Secretary of the Central Advisory Council of Industries will be the Secretary of the Sub-Committee.

[No. 2(1)IA(II)(G)/59.]

K. C. MADAPPA, Dy. Secy.

RUBBER CONTROL

New Delhi, the 20th February 1959

S.O. 455.—On the relinquishment of the charge of the office of Chairman, Rubber Board, Kottayam, by Shri N. Sankara Menon, I.A.S., on 21st February, 1959, the Rubber Production Commissioner shall attend to the current duties of the Chairman, until further orders.

[No. 21(7)Plant(B)/57.]

A. J. KIDWAI, Dy. Secy.

New Delhi, the 23rd February, 1959

S.O. 456.—Shri A. K. Sen, a permanent Officer of Grade I of the Central Secretariat Service, now employed as Secretary, Tea Board, is granted earned leave for a period of 13 days from 29th December, 1958 to 10th January, 1959 with permission to prefix and suffix Sundays on 28th December, 1958 and 11th January, 1959 respectively.

[No. 1(9)Plant(A)/59.]

P. V. RAMASWAMY, Under Secy.

ORDERS

New Delhi, the 19th February 1959

S.O. 457/IDRA/6/15/Am(2).—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 read with the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Mr. B. H. Trenear-Thomas to be a member of the Development Council for the scheduled industry engaged in the manufacture or production of alcohol and other products of fermentation industries and make the following amendment in the Order of the Government of India in the Ministry of Commerce and Industry Order No. S.R.O. 1904/IDRA/6/15, dated the 16th September, 1958, namely:—

In the said Order, under the category of persons who in the opinion of the Central Government are capable of representing the interests of consumers of goods manufactured or produced by the said scheduled industries, for entry No. 11 relating to Shri J. Verghese, the following entry shall be substituted, namely:—

“11. Mr. B. H. Trenear-Thomas, Co-ordination Manager, Burmah-Shell Oil Storage & Distributing Co. of India Ltd., New Delhi.”

[No. 4(45)IA(II)(G)/58.]

S.O. 458/IDRA/6/15/Am.(3).—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with paragraph 1(b) of the Order of the Government of India in the Ministry

of Commerce and Industry No. S.O. 1904-IDRA/6/15, dated the 16th September, 1958, the Central Government hereby appoints Shri Rameshwar Saran Singh, General Secretary, U.P. Distillery Workers Federation, Shahanshah Manzil, Golaganj, Lucknow as a member of the Development Council established by the said Order for the scheduled industries engaged in the manufacture or production of alcohol and other products of fermentation industries and directs that the following amendment shall be made in the said Order, namely:—

(1) For item 10 and the entries relating thereto, the following shall be substituted, namely:—

- | | | |
|---|---|---|
| <p>“10. Shri Ram Singh Bhai Varma, M.P. Vice President, Indian National Trade Union Congress, Jan Path, New Delhi.</p> <p>10a. Shri Rameshwar Saran Singh, General Secretary, U.P. Distillery Workers Federation, Shahanshah Manzil, Baroodkhana, Golaganj, Lucknow.”</p> | } | <p>“being persons who in the opinion of the Central Government, are capable of representing the interests of persons employed in industrial undertakings in the said scheduled industries”.</p> |
|---|---|---|

(2) Paragraph 1(b) shall be omitted.

[No. 4(45)IA(II)(G)/58.]

A. K. CHAKRAVARTI, Under Secy.

(Indian Standards Institution)

New Delhi, the 16th February, 1959

S. O. 459.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established during the period.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard established	No. and title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars								
(1)	(2)	(3)	(4)								
1.	IS : 226-1958 Specification for Structural Steel (Second Revision).	IS : 226-1955 Specification for Structural Steel (Revised).	The revised standard prescribes requirements for steel sections plates and bars (round, square, flat, hexagonal, etc.) of the following categories for use in structural work:								
			<table><tr><th>Steel Designation</th><th>Purpose for which intended</th></tr><tr><td>A</td><td>In structures subject to dynamic loading and other special cases.</td></tr><tr><td>B</td><td>In structures not subject to dynamic loading.</td></tr><tr><td>ASW</td><td>In structures subject to dynamic loading and when special welding jobs are required.</td></tr></table>	Steel Designation	Purpose for which intended	A	In structures subject to dynamic loading and other special cases.	B	In structures not subject to dynamic loading.	ASW	In structures subject to dynamic loading and when special welding jobs are required.
Steel Designation	Purpose for which intended										
A	In structures subject to dynamic loading and other special cases.										
B	In structures not subject to dynamic loading.										
ASW	In structures subject to dynamic loading and when special welding jobs are required.										
			(Price Rs. 1.50)								

(1)	(2)	(3)	(4)
2.	IS : 1224-1958 Determination of Fat in Whole Milk, Evaporated (Unsweetened) Milk, Separated Milk, Skim Milk, Butter milk and Cream by the Gerber Method.	..	This standard prescribes the procedure for the determination of fat in whole milk, evaporated (unsweetened) milk, separated milk, skim milk, butter milk and cream by Gerber Method. (Price Rs. 1.50)
3.	IS : 1278-1958 Specification for Filler Rods and Wires for Gas Welding.	..	This standard prescribes tolerances, chemical composition and mechanical properties of steel rods and wires, cast iron rods, copper and copper alloy rods and wires, magnesium alloy rods and wires, aluminium and aluminium alloy rods, and nickel and nickel alloy rods and wires. (Price Rs. 2.00)
4.	IS : 1280-1958 Specification for Foundry Moulding Boxes.	..	This standard specifies dimensions and materials of two pin foundry moulding boxes ranging in size from 320 × 320 × 80 mm to 2000 × 2000 × 500 mm and their main components, such as pins, plugs and bushes. It does not cover special purpose boxes, which may be required by jobbing foundries; in their case if necessary, use can be made of the components, such as pins, bushes, etc., specified in this standard. (Price Rs. 1.50)

Copies of these Indian Standards are available for sale with the Indian Standards Institution 'Manak Bhavan', 9-Mathura Road, New Delhi-1, and also at its Branch Offices at (i) 40/40A, Cawasji Patel Street, Fort, Bombay-1, (ii) P-11, Mission Row Extension, Calcutta-1 and (iii) 2/21 First Line Beach, Madras-1.

[No. MDC 11(4)].

S.O. 460.—In pursuance of regulation 4 of the Indian Standards Institution (Certification Marks) Regulations, 1955 the Indian Standards Institution hereby notifies that amendments to the Indian Standards given in the Schedule hereto annexed have been issued under the powers conferred by sub-regulation (1) of regulation 3 of the said regulations.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard amended	No. & date of Gazette Notification in which the establishment of the Indian Standard was notified	No. & date of Amendment	Brief Particulars of Amendment	Date of effect of the Amendment
(1)	(2)	(3)	(4)	(5)	(6)
1.	IS : 102-1950 Specification for Ready Mixed Paint, Brushing, Red Lead, Non-Setting, Priming.	S.R.O. 658 dated 26th March, 1955.	No. 1 March, 1959.	The surface drying time, prescribed in Table 1 (appended to clause 4.2) item 2(a) of the standard, has been changed from '6 to 12 hours' to '3 to 10 hours'.	1st March, 1959.

(1)	(2)	(3)	(4)	(5)	(6)
2.	IS : 281-1951 Specification for Sliding Door Bolts for use with Padlocks.	S.R.O. 658 dated 26th March, 1955.	No. 1 February 1959.	<p>(a) Sub-clauses, 3.1.1, 3.1.2, 3.2.1, 3.2.2 and 3.2.2.1 of the standard giving material to be used in the manufacture of sliding bolts have been deleted and substituted by new sub-clauses.</p> <p>(b) In clause 4.2, last sentence has been deleted and substituted by the following : "The black plate, the straps and the staple shall be given a phosphate coating and then stove enamelled black before assembly."</p> <p>(c) After Clause 5.1, a new clause 5.2 has been added giving permissible tolerances for the dimensions of bolts specified in Table I.</p>	1st March, 1959.
3.	IS : 362-1951 Specification for Parliament Hinges (Tentative).	S.R.O. 658 dated 26th March, 1955.	No. 1 February 1959.	<p>(a) Clauses/sub-clauses 2.1, 2.1.1, 2.1.2, 2.2 and 2.3 of the standard have been deleted and substituted by new clauses/sub-clauses.</p> <p>(b) After clause 3.1 new clause 3.2 has been added giving permissible tolerances for the dimensions of parliament hinges specified in Table I.</p>	1st March, 1959.
4.	IS : 363-1951 Specification for Hasps and Staples, Safety and Wire Types (Tentative).	S.R.O. 658 dated 26th March, 1955.	No. 1 February 1959.	<p>(a) In para 3 of the foreword (lines 6-8), delete the sentence "Hasps and Staples of Superior type are not covered by this standard" and substitute the following : "The Sectional Committee responsible for the preparation of this standard also proposes to lay down, in due course, specifications for hasps and staples of superior types."</p> <p>(b) After clause 2.2, a new clause 2.3 has been added giving permissible tolerances for the dimensions specified in Tables I & II.</p> <p>(c) Clause 3.1, sub-clauses 3.1.1 and 3.1.2, clause 3.2 and sub-clauses 3.2.1 and 3.2.2 of the standard have been deleted and replaced by new clauses/sub-clauses.</p> <p>(d) In clause 4.1, the second sentence "The hinge pin shall be of mild steel in all cases" has been deleted.</p>	1st March, 1959.

(1)	(2)	(3)	(4)	(5)
			(e) Substitute '3/16' for '1/4' in Table I, against sizes 6 in. and 7 in. under dimension E.	
			(f) Substitute '5/16' for '—' in Table II, against size 4 in. under Dimension F.	
			(g) In clause 5.1 the existing item (i) has been deleted and substituted by the following :	
			“(i) Hasps and Phosphate staples, safety coated and wire types, then stove mild steel, then stove enamelled black.”	
5.	IS . 888-1956 Specification for Follow Ground Razors, Open Type.	S.R.O. 2120 dated 29th March, June, 1957.	No. 1 1959.	Under Clause 4.1, the following note has been added : “NOTE.—Manufacturers are recommended to subject the steel forgings to globarizing (spheroidizing) treatment. This facilitates uniform hardness which is essential for quality razors, and gives them a keen and straight edge on repeated re-sharpening.”

Copies of these amendments are available, free of cost, with the Indian Standard Institution, 'Manak Bhavan', 9-Mathura Road, New Delhi-1 and also at its Branch Offices at (i) 40/40A, Girwadi Patel Street, Fort, Bombay-1, (ii) P-11 Mission Row Extension, Calcutta-1, and (iii) 2/21 First Line Beach, Madras-1.

[No. MDC 11(89)].

G. N. MODAWAL,
Deputy Director (Marks).

MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

(Indian Council of Agricultural Research)

New Delhi, the 12th February 1959

S.O. 461.—In pursuance of the provisions of clause (c) of Section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944) the Government of Madras have nominated Shri A. R. M. Chakrapani Reddiar, 10, Kandappa Chetty Street, Madras-1, as a member of the Indian Central Coconut Committee for a period of one year with effect from 1st April 1959.

[No. 8-4/58-Com.I.]

S.O. 462.—Under Section 4(x) of the Indian Cotton Cess Act, 1923 (XIV of 1923), the Central Government are pleased to renominate Sardar Ujjal Singh as a member of the Indian Central Cotton Committee from 1st April, 1959, to 31st December, 1959.

[No. 1-12/58-Com. II.]

AJUDHIA PRASADA, Under Secy.

MINISTRY OF HEALTH*New Delhi, the 23rd February 1959*

S.O. 463.—In pursuance of Regulation No. 15 of the Dental Council of India Regulations for the Examination for qualifying a person registered in Part 'B' to register in Part 'A' of the Dentist Register maintained under the Dentists Act, 1948 (16 of 1948), it is hereby notified that the following candidates passed the Examination No. I conducted by the Dental Council of India at the Dental College and Hospital, Lucknow, in January, 1959. The Roll Numbers of the candidates are given in brackets against their names:—

- M. A. R. Nathan—(1).
- P. D. Chaudhry—(2).
- Mohinder Singh—(4).
- A. L. Amanna—(5).
- Liu Chung Sen—(6).
- C. M. Bhagat—(7).
- M. F. Ravi—(8).
- Narain Swarup—(9).
- P. N. Gupta—(11).

(S. BRATT, LDSC, FICD),
Secretary,
Dental Council of India.

[No. F.18-5/59-M.I.]

KRISHNA BIHARI, Dy. Secy.

MINISTRY OF TRANSPORT & COMMUNICATIONS**(Department of Transport)****(Transport Wing)***New Delhi, the 18th February 1959*

S.O. 464.—In exercise of the powers conferred by sub-sections (1), (2) and (3) of section 4 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby establishes with effect from the 1st March, 1959, a National Shipping Board, and nominates Shri G. L. Mehta to be the Chairman of the Board, with the following members:—

Elected by the House of the People

- 1. Shri Raghunath Singh
- 2. Smt. Ila Palchoudhary
- 3. Shri Bhawanji A. Khimji
- 4. Shri Purushottamdas R. Patel.

Elected by the Council of States

- 5. Shri Mudumala Henry Samuel
- 6. Shri Ajit Pratap Singh

Central Government Representatives.

- 7. Shri O. Pulla Reddi, I.C.S.
- 8. Shri S. S. Shiralkar
- 9. Shri K. B. Lall, I.C.S.
- 10. Dr. Nagendra Singh, I. C. S.

Representatives of shipowners

11. Smt. Sumati Morarjee
12. Shri A. Ramaswami Mudaliar
13. Shri Vikramsinh S. Vallabhadass

Representatives of Seamen & Merchant Navy Officers

14. Shri Dinkar Desai
15. Shri Bikas Majumdar
16. Shri J. D. Randeri

OTHER INTERESTS

Representative of Trade

17. Shri Babubhai M. Chinai

Representative of sailing vessels industry

18. Shri Damodar Mathuradas Ashar

Representative of the shipbuilding industry (Chairman).

19. Shri G. L. Mehta

Member Secretary

20. Shri C. P. Srivastava, I.A.S.

[No. 33 MS(221)/58.]

NAGENDRA SINGH, Jt. Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 14th February 1959

S.O. 465.—In exercise of the powers conferred by the Proviso to Article 309 of the Constitution, the President hereby directs that the method and field of recruitment for the post of Junior Field Officer (Timber) in the Directorate of Supplies and Disposals, Calcutta and Bombay under the Directorate General of Supplies and Disposals specified in the Annexure shall be as shown therein.

[No. ES.II-49(19)/58.]

R. RAJAGOPALAN, Under Secy.

MINISTRY OF IRRIGATION & POWER

New Delhi, the 19th February 1959

S.O. 466.—In exercise of the powers conferred by the proviso to sub-rule (1) of rule 45 of the Indian Electricity Rules, 1956, the Central Government hereby exempts any electrical installation work, carried out on the premises of the Lignite Mines of Messrs Neyveli Lignite Corporation (Private) Ltd., from so much of this sub-rule as requires any such work to be carried out by an electrical contractor licensed by the State Government in this behalf, subject to the condition that every electrical installation work shall be carried out under the direct supervision of a person in the employment of the corporation and holding a Certificate of Competency issued by the State Government, under sub-rule (1) of Rule 45, authorising the holder to supervise electrical installation works in the premises of a mine.

[No. EI-III-353(25).]

N. S. VASANT,
Officer on Special Duty.

MINISTRY OF REHABILITATION**(Office of the Chief Settlement Commissioner)***New Delhi, the 19th February 1959*

S.O. 467.—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints for Delhi, Shri Sardari Lal, for the time being holding the post of Managing Officer (Grade II), as Assistant Custodian for the purpose of discharging the duties assigned to the Custodian of Evacuee Property, by or under the said Act.

[No. 16(8)-Admn(Prop)/58.]

S.O. 468.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act 1954 (44 of 1954), the Central Government hereby appoints Shri M. N. Mukerjee as Assistant Settlement Officer, for the purpose of performing the functions assigned to such officers by or under the said Act with effect from date he took charge of his office.

[No. 8/204/Admn(R)/59.]

New Delhi, the 21st February 1959

S.O. 469.—In exercise of the powers conferred by Section (I) of Section 3 of the Displaced Persons (Claims) Supplementary Act, 1954 (No. 12 of 1954), the Central Government hereby appoints Shri P. N. Bhanot, as Settlement Commissioner for the purpose of performing the functions assigned to such Commissioner by or under the said Act.

[No. 11-A(51)-59(CSC)/AI-I.]

S.O. 470.—In exercise of the powers conferred by Sub-Section (I) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri P. N. Bhanot, as Settlement Commissioner for the purpose of performing the functions assigned to such Commissioner by or under the said Act.

[No. 11-A(51)-59(CSC)/AI-II.]

M. L. PURI,**Settlement Commissioner & Ex-Officio Under Secy.****(Office of the Chief Settlement Commissioner)***New Delhi, the 21st February 1959*

S.O. 471.—In exercise of the powers conferred on me by Sub-Section (2) of Section 10 of the Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), I have delegated to Shri P. N. Bhanot, Settlement Commissioner with effect from 19th February, 1959, the following powers of the Chief Settlement Commissioner:

1. Power to call for the record of any case decided by the Settlement Officer and pass order in the case under provision to Sub-Section (3) of Section 4 of the said Act.
2. Special power of revision under Section (5) of the said Act in respect of cases decided under the Displaced Persons (Claims) Act, 1950 (44 of 1950).

[No. 11-A(51)-59(CSC)/AI-III.]

S.O. 472.—In exercise of the powers conferred on me by Sub-Section (2) of Section 10 of the Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), I have delegated Shri P. N. Bhanot, Settlement Commissioner, with effect from the 19th February, 1959, the following powers of the Chief Settlement Commissioner namely:—

1. Power to transfer cases to Settlement Officers by general or special order under Sub-Section (I) of Section 4 of the said Act.

2. Power to require a Settlement Officer to appoint one or more persons to advise him in any proceeding pending before him, under Sub-Section (2) of Section 6 of the said Act.
3. Power to transfer any case pending before a Settlement Officer to another Settlement Officer under Section 7 of the said Act.

[No. 11-A(51)-59/CSC/AI-IV.]

S.O. 473.—In exercise of the powers conferred on me by Sub-Section (2) of Section 34 on the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), I hereby delegate to Shri P. N. Bhanot, Settlement Commissioner with effect from the 19th February, 1959, the following powers of the Chief Settlement Commissioner:—

1. Power to hear appeals under Section 23 of the said Act.
2. Power to hear revisions under Section 24 of the said Act.

[No. 11-A(51)-59/CSC/AI-V]

L. J. JOHNSON,
Chief Settlement Commissioner.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 20th February 1959

S.O. 474/PWA/Procedure/Rules/Am.1.—The following draft of certain amendments to the Payment of Wages (Procedure) Rules, 1937, which the Central Government proposes to make in exercise of the powers conferred by sub-sections (2) and (3) of section 26 of the Payment of Wages Act, 1936 (4 of 1936) is published as required by sub-section (5) of section 26 of the said Act for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 25th May 1959.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government. Objections or suggestions should be addressed to the Secretary to the Government of India, Ministry of Labour & Employment, New Delhi.

Draft Amendments

1. In rule 2, after clause (g), the following clause shall be inserted, namely:—

“(gg) record of direction or order” means the record of an order dismissing either wholly or in part an application made under sub-section (2) of section 15 or of a direction made under sub-section (3) or sub-section (4) of that section kept in Form ‘F’.”

2. In sub-rule (3) of rule 9, for the words “record of direction in Form F” the words “record of direction or order” shall be substituted.

3. In rule 10, for the words “a Record of Direction” the words “the record of direction or order” shall be substituted.

4. In rule 12--

- (i) for sub-rule (1) the following sub-rule shall be substituted, namely:—

“(1) An appeal shall be preferred in duplicate in the form of a memorandum, one copy of which shall bear the prescribed court fee, setting forth concisely the grounds of objection to the order dismissing either wholly or in part an application made under sub-section (2) of section 15 or a direction made under sub-section (3) or sub-section (4) of that section, as the case may be, and shall be accompanied by a certified copy of the said order or direction”.

- (ii) in sub-rule (3), for the word “direction”, the words “order or direction” shall be substituted.

5. In Form F—

- (i) for the heading "Record of Direction", the words "Record of order or direction" shall be substituted;
- (ii) for item 7, the following item shall be substituted, namely:—

"7. Finding, and, in the case of an order dismissing either wholly or in part, an application made under sub-section (2) of section 15 or of a direction made under sub-section (3) or sub-section (4) of that section, a brief statement of the reasons therefor:—"

[No. Fac. 49(32)/58.]

B. K. BHATTACHARYA, Dy. Secy.

New Delhi, the 20th February 1959

S.O. 475.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri M. K. Bhatnagar to be an Inspector for the whole of the Union Territory of Delhi for the purposes of the said Act and of any Scheme made thereunder, in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry, *vice* Shri R. P. Sood.

[No. PF-1/31(548)/59.]

S.O. 476.—In pursuance of paragraph 3 of the Coal Mines Provident Fund Scheme published with the notification of the Government of India in the late Ministry of Labour No. PF.15(5)48 dated the 11th December 1948, the Central Government hereby nominates Shri I. B. S. R. Surita, I.A.S., Commissioner, Burdwan Division, to the Board of Trustees and makes the following further amendment in the notification of the Government of India in the late Ministry of Labour No. S.R.O. 2227, dated the 5th October, 1955, namely:—

In the said notification, for the entry "(4) Shri B. Sarkar, I.C.S., Commissioner, Burdwan Division, P.O. Chinsurah, West Bengal", the entry "(4) Shri I. B. S. R. Surita, I.A.S., Commissioner, Burdwan Division, P.O. Chinsurah, West Bengal" shall be substituted.

[No. PF.I/4(35)58.]

New Delhi, the 24th February 1959

S.O. 477.—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby appoints Shri B. Sen Gupta, I.A.S., Deputy Secretary to the Government of West Bengal, Finance Department, to be a member of the Regional Committee for the State of West Bengal and makes the following further amendment in the notification of the Government of India in the Ministry of Labour No. S.R.O. 1278 dated the 20th June, 1953, namely:—

In the said notification, for entry (3), the following entry shall be substituted, namely:—

"(3) Shri B. Sen Gupta, I.A.S., Deputy Secretary to the Government of West Bengal, Finance Department, Calcutta".

[No. PF. II. 45(23)/57.]

P. D. GAIHA, Under Secy.

New Delhi, the 23rd February 1959

S.O. 478.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the Industrial Dispute between Messers Tulsidas Khimji and their workmen.

BEFORE SHRI F. JEEJEEBHoy, CHAIRMAN, LABOUR APPELLATE TRIBUNAL OF INDIA FUNCTIONING AS THE SOLE MEMBER OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CONSTITUTED BY THE ORDER OF THE GOVERNMENT OF INDIA, MINISTRY OF LABOUR AND EMPLOYMENT DATED 8TH NOVEMBER 1958. WITH HEADQUARTERS AT BOMBAY.

REFERENCE No. CGIT-2 OF 1958.

In the matter of
Messrs. Tulsidas Khimji

AND

Their workmen.

APPEARANCES:

For the employers: Shri P. P. Khambatta and Shri A. T. Joshi.

For the workmen: Shri M. G. Kotwal and Shri S. R. Kulkarni. Later Shri N. V. Phadke.

Dated: 12th February 1959.

AWARD

By its Order of 8th November 1958 the Government of India in the Ministry of Labour and Employment referred to this Tribunal for adjudication the industrial dispute existing between the partnership of Tulsidas Khimji and their workmen concerning the question as to the quantum of bonus payable to the workmen for the year ending 31st October 1957 and the conditions governing its payment.

2. The employers engage their workmen *inter alia* for the concern's clearing and forwarding business carried on in the dock area of the Port of Bombay. The employers are also engaged in other co-related business to which reference will be made later in this award. The employers have paid the workmen bonus equivalent to three month's basic wages and one month's dearness allowance, but something less to those with service within three years; labour is not satisfied and wants more.

3. Two preliminary objections have been taken by Shri Khambatta on behalf of the employers. Firstly, it is said that the dispute between the parties above-named is not a dispute concerning which the Central Government is 'the appropriate Government' for the purpose of making the Reference. It is urged that in as much as the port authorities are not parties to or interested in this Reference, the Reference cannot appropriately be made by the Central Government. Without prejudice to the above contention the employers raise a second objection, namely, that as the activities of the concern embrace a number of different and unconnected businesses the Reference can only have reference to the workers working at the docks. This question however could be determined only after the facts were more apparent.

4. As regards the first point, section 2(a) of the Industrial Disputes Act defines the appropriate Government as follows:

"In relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government/or in relation to an industrial dispute concerning a banking or an insurance company, a mine, an oilfield or a major port, the Central Government....".

5. Shri Khambatta has urged that by reason of the mere fact that certain workmen carry out their duties within the port area it does not follow that an industrial dispute between them and their employers is a matter in dispute concerning a major port.

6. There is some substance in the contention of Shri Khambatta. The wording of the last sentence of the section reproduced above is not too happy. For instance, when the section speaks of an "industrial dispute concerning a major port" it cannot mean an industrial dispute in which the major port itself is the subject of dispute; it can only mean disputes in or about the functions of the major port. Whether the term "functions" as used by me here must necessarily restrict itself to only those cases where the Port Trust and its immediate employees are concerned, or whether it should be more extensive, is of course a question which requires consideration. When the piece-rate scheme for dock workers was given for the

port of Bombay, the parties to the dispute were the Port Trust on the one hand and the dock workers on the other, and a third party was the Dock Labour Board of Bombay which by statute supplies stevedoring labour. In that Reference the stevedores were also made parties to the dispute. Simultaneously the disputes between the workmen and contractors engaged in stevedoring work on their own in Bombay port were also referred for separate adjudication by the Central Government, and those References were heard and decided, and no objection was taken as to the Central Government's being the appropriate Government. A similar question was decided by the Adjudicator Shri Dave who was then the Chairman of the Central Government Industrial Tribunal at Dhanbad in Reference No. 14 of 1954 where he held that the Central Government was the appropriate Government for making the Reference relating to disputes between certain clearing and forwarding agents of the Port of Bombay and their workmen.

7. According to the statement of the concern their work consists of clearing and forwarding which includes getting the documents released from the customs, and removing the goods from the docks for despatch either to railway stations or for railing to destination, or to their godowns for storage, or to the local importers' godowns. The Company treats the dock and railway staff as in reality one, and the activities of the staff in godowns are co-ordinated and directed by a small section in the office. The above is a reproduction of what the employers have stated in a letter to the Regional Labour Commissioner on 29th January 1959.

8. The company also carries on a lucrative business by letting out space in godowns owned or hired by it, and anything between 25% and 40% of godown space is in constant occupation of customer's goods cleared by the concern. Some of the goods are also insured by the concern acting as agents of the Insurance Company. There is a further activity of the concern in that it acts as controllers for the East India Cotton Association. As controllers this concern draws samples of cotton and seals them, and after the samples have been approved by the East India Cotton Association the bales are removed by the owners under the escort of this concern to the dock gates; but there is no clearance by this concern through customs in respect of these goods.

9. The port authorities have been constituted for the essential purpose of facilitating trade, which includes the loading and unloading of goods and the removal of goods from the docks. In my opinion a dispute between the employers and their workmen in connection with such work, and within the area of the Port or an extension of such work as there appearing, is an industrial dispute for which the Central Government is the appropriate Government for making a Reference in terms of the Industrial Disputes Act. Thus in my opinion the validity of the Reference cannot be challenged.

10. I shall later deal with the question as to who are the workmen covered by this Reference or in respect of whom the Central Government is appropriate Government for making a Reference.

11. Counsel for the concern has contended that this Tribunal is concerned with profits of the clearing and shipping departments only. It is claimed that the godowns department has nothing to do with clearing and shipping as such, and that the utilisation of the company's godowns for storing goods of customers is independent of clearing and forwarding. It is also said that so far as the insurance department is concerned, it is utilised for insuring some goods only as agents of the principal company; and as regards the cotton supervision and control department, it is urged that the work of the concern is only to draw samples of cotton and seal them, and to take them under the escort of the company to the dock gates, and that this subject does not come within this Reference.

12. There are two main issues arising out of this Reference. The first is whether the concern in the bonus year has made substantial profits to allow for the payment of bonus, and what should be the funds constituting such profits. The employers have stated that their partnership business is run in four separate departments namely, clearing and forwarding, storage and godowns, insurance, and cotton control work. It is contended that these departments are separate and distinct; their accounts are kept separate, but that there is an integrated account for the purpose of income-tax assessment. They therefore contend that in the case before me the only accounts which are relevant to the issue are the accounts of the clearing and forwarding department. On behalf of the workmen it is contended that the prosperity of a concern can only be judged from its integrated activities. I agree with the view of labour on this point, although questions like the contribution of the particular body of workmen to the profits of the year will be a matter for consideration when awarding bonus.

13. I have no doubt that for ascertaining the profits of the partnership for the year the figures of all the departments must be taken into consideration, for it cannot be said that there is in respect of any one of the departments concerned anything in the nature of extraneous income. The company when called upon to do so produced its consolidated statement of account for the bonus year, and on that consolidated account the quantum available for bonus has to be ascertained.

14. The second issue raises the question as to who are the employees falling within this Reference. It does appear that ordinarily the employees are contained within their departments. Thus there is no dispute that the clearing and forwarding department workmen (including clerks) will be entitled to bonus. I have no doubt that the workmen (including clerks) of the godowns department are also entitled to bonus if it is granted under this Reference. The storage of goods removed by this concern on behalf of importers is anything between 25 per cent. and 40 per cent. of the storage space in their godowns, and this work constitutes an extension of the work of clearing and forwarding department. It is true that this work of clearing and shipping can be carried out without the use of any godowns, but the fact remains that the company has utilised the godowns for the purpose of storing its client's goods, and it does not require any stretch of the imagination to conclude that a clearing shipping agent has an advantage over others if he also has storage facilities for his clients' goods. The next item of insurance is a Central subject, the insuring business is negligible for present purposes both as regards its personnel as well as the profits made. It may well be that the workmen of the cotton control department are not covered by this Reference; but it has become a truism that its certain workmen of a concern are given bonus, it is difficult to deny such bonus to the rest. It may be true that the departments are kept separate, but the partnership is a single entity consisting of 6 partners, and the work of all the departments is integrated at the level of accounts and at higher managerial policy and control. I hold that the persons claiming bonus, before me are the employees including clerks of all the departments except that of the cotton control work. But in determining the quantum available for bonus I must calculate on the basis that all the workmen would have to be paid bonus, and that is what the company has in fact done.

15. As to the quantum available for bonus, the accounts of the concern have been given under a seal of confidence under Section 21 of the Act, and I should not refer to the figures except in so far as it is essential that I should do so for the purposes of this decision. This concern is 70 years old and is run by six partners, three of whom have been in the business for more than 35 years; one of the junior partners is qualified in business management and administration. The insurance business brings comparative insignificant amount of profits. The profits of the godown business and cotton control department are the highest. The profits of the clearing and forwarding department are about half the profit of the godown department.

16. The company has 230 workmen on its rolls. It has paid them all bonus equivalent to three months' basic wages and one month's dearness allowance, and something less to those who have not completed three years' service. The amount of bonus so paid is approximately equivalent to the whole of the profits of the clearing and forwarding department. On another basis the bonus paid is equivalent to about one third of consolidated profits less normal depreciation (which is negligible) and less taxation. As to prior charges after depreciation and after taxation in terms of the Full Bench formula, the partners have the right to claim a legitimate return of not less than 6 per cent. on the capital of Rs. 2,25,000 which they have invested, as also remuneration for their individual whole time work in the partnership business. The company has also claimed a return on reserves used as working capital, but this claim is somewhat misconceived. The company has also made a claim to Rs. 75,000 as a prior charge on account of reserves "for gratuity and other financial burdens like wage scales etc." This claim is clearly not admissible to the extent to which it has been made; it is true that in 1957 the wage scales were by agreement revised; but the employers cannot claim to take away in these calculations a slice of the profits of this bonus year as recompense for what they agreed to pay by way of higher wages in future years. No doubt a reasonable reserve is permissible under the formulas for a gratuity fund, provided that such a fund is in existence. But the amount of such a reserve as a prior charge under the formula should be limited to anything between 5 per cent. to 10 per cent. of the total requirements of the gratuity fund so that the gratuity charge is not inflated at the expense of labour's bonus. Labour has also objected to a sum of Rs. 35,286 kept aside for contingency reserves, but those are the only reserves with the company.

17. Upon a proper calculation of these items in terms of the Full Bench formula it is apparent that the amount paid out as bonus, having regard to the trading results of the year is more than reasonable, subject however to the directions hereinafter contained. It has been the practice of this concern in the past to give a lesser rate of bonus to those who had put in less than three years service, whereas Tribunals grant the same rate of bonus to everybody irrespective of years of service. I am told by the employers that only a small proportion of the employees have been affected by this differentiation, and I direct that these persons shall be paid bonus at the same rate as the others notwithstanding the fact that they had worked for less than three years. The amount which becomes due to them to bonus for the year by reason of this award.

19. The claim of the workmen to higher bonus fails, and the issue in the Reference is negatived, except to the extent stated above.

20. Now, therefore, I make this award in terms aforesaid.

(Sd.) F. JEEJEEBHOO,
Chairman,
Labour Appellate Tribunal of India, functioning
as the Sole Member, Central Government
Industrial Tribunal, with headquarters at
Bombay.

The 12th February, 1959.

[No. LR-IV-28(41)/58.]

New Delhi, the 24th February 1959

S.O. 479.—In exercise of the powers conferred by sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), read with the proviso to sub-section (2) of section 1 of the said Act, the Central Government hereby specifies, for a further period of six months from the 26th February, 1959, the Labour Inspector (Central) at Ambala, as the authority to whom the employer shall send intimation of any lock-out or strike referred to in the said sub-section, in the States of Punjab and Jammu & Kashmir and in the Union Territory of Himachal Pradesh.

[No. LRI-1(17)/59.]

S.O. 480.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), read with the proviso to sub-section (2) of section 1 of the said Act, the Central Government hereby appoints the Labour Inspector (Central) at Ambala as Conciliation Officer for a further period of six months from the 26th February, 1959, for all industrial disputes—

- (a) in the State of Punjab and the Union Territory of Himachal Pradesh concerning workmen employed in—
 - (i) any industry carried on by or under the authority of the Central Government other than railways;
 - (ii) any controlled industry specified by the Central Government under sub-clause (i) of clause (a) of section 2 of the said Act;
 - (iii) any mine;
 - (iv) any oil field;
 - (v) any banking, or insurance company, having branches or other establishments in more than one State;
- (b) in the State of Jammu and Kashmir concerning workmen employed under the Government of India.

[No. LRI-1(17)/59.]

A. L. HANDA, Under Secy.

New Delhi, the 24th February 1959

S.O. 481.—In pursuance of the proviso to clause (8) of regulation 2 of the Coal Mines Regulations, 1957, the Central Government hereby authorises the District Magistrates, Nanded and Chanda districts in the State of Bombay, as District Magistrates in the case of the Sasti and Ghugus Collieries respectively,

owned by the Ballarpur Collieries Company, for the purposes of the said regulations.

[No. MI-1(13)58.]

P. N. SHARMA, Under Secy.

ORDERS

New Delhi, the 21st February 1959

S.O. 482.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Lachmi Colliery, Parbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad constituted under section 7A of the said Act.

SCHEDULE

- (i) Whether the management of the Lachmi Colliery was justified in retrenching Shri Ram Narayan Tiwari, a workman of the colliery; if not, to what relief is he entitled and with effect from which date?
- (ii) Whether the provisions laid down in chapter VA of the Industrial Disputes Act, 1947, were followed in retrenching the workman; if not, to what relief is he entitled and with effect from which date?

[No. LR II-2(12)59.]

New Delhi, the 24th February 1959

S.O. 483.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to M/s Bikaner Gypsums Ltd. and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Delhi, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal/discharge of the undermentioned workmen from service by the management of M/s Bikaner Gypsums Ltd., Bikaner, was justified, and if not, to what relief these workmen are entitled:—

1. Shri Bhanwar Lal Verma, Supervisor.
2. Shri Sita Ram Agarwal, Supervisor.
3. Shri Tulsi Singh, Driver.
4. Shri A. K. Mukherjee, Wireman.
5. Shri Mohabat Singh, Sampler.
6. Shri Sherq (Son of Heera), Mazdoor.

[No. LR II-64(14)58-II.]

K. D. HAJELA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

ORDER

New Delhi, the 21st February 1959

S.O. 484.—The Central Government hereby:

- (a) directs, in pursuance of the provisions of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 3805, dated the 26th December, 1955 and in modification of the Order

of the Government of India in the Ministry of Information and Broadcasting No. S.O. 1673, dated the 9th August, 1958 that the Advisory Panel of the Central Board of Film Censors at Madras would consist of 20 members with effect from 7th December, 1958 and shall consist of 25 members with immediate effect;

- (b) notifies for general information that Shrimati P. Mandakini Bai, a member of the Advisory Panel of the Central Board of Film Censors at Madras retired under sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules 1958 with effect from 7th December, 1958; and
- (c) appoints, after consultation with the Central Board of Film Censors, the following persons as members of the Advisory Panel of the said Board at Madras with immediate effect in exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958:
1. Dr. S. K. Nayar.
 2. Shri C. H. Sibghathullah.
 3. Professor P. V. Chalapateswara Rao.
 4. Shrimati Visalakshi Narayanaswamy.
 5. Shrimati A. V. Patre.

[No. F.14/1/57-FC.]

D. R. KHANNA, Under Secy.

ERRATA

In the Gazette of India Part II—Section 3(ii), Issue No. 8, dated 21st February, 1959, the following S.O. Nos. are to be corrected:—

Page 433, for "S.O. 3931" read "S.O. 393".

Page 445, for "S.O. 411" read "S.O. 418".

